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THE IMPACT OF FEDERAL IMMIGRATION POLICY AND INS ACTIVITIES ON COMMUNITIES

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HEARINGS BEFORE THE INFORMATION, JUSTICE, TRANSPORTATION, AND AGRICULTURE SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS FIRST AND SECOND SESSIONS

JUNE 2; AUGUST 31, 1993; AND MARCH 28, 1994

Printed for the use of the Committee on Government Operations



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THE IMPACT OF FEDERAL IMMIGRATION POLICY AND INS ACTIVITIES ON COMMUNITIES

WEDNESDAY, JUNE 2, 1993

**HOUSE OF REPRESENTATIVES,
INFORMATION, JUSTICE, TRANSPORTATION,
AND AGRICULTURE SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
*Merced, CA.***

The subcommittee met, pursuant to notice, at 9 a.m., in Merced City Council Chamber, Merced Civic Center, Merced, CA, Hon. Gary A. Condit (chairman of the subcommittee) presiding.

Present: Representatives Gary A. Condit and Craig Thomas.

Also present: Representative Collin C. Peterson.

Staff present: Shannon M. Lahey, professional staff member.

OPENING STATEMENT OF CHAIRMAN CONDIT

MR. CONDIT. I would like to call this meeting to order, the meeting of the Subcommittee on Information, Justice, Transportation, and Agriculture. The hearing is a continuation of the hearing the subcommittee began in Washington, DC, on the Immigration and Naturalization Services.

I would like to thank everyone for being here today. I would particularly like to thank my colleague, who has become my good friend, Mr. Collin Peterson, who traveled all the way from Minnesota to be here today. He is a member of the full Government Operations Committee and a subcommittee chairman who will be doing some hearings in the next few weeks and months on NAFTA and what NAFTA means to employment for this country. So we are really honored to have him here today; and I deeply appreciate the effort of Mr. Jack Shaw of the INS, Joe Sandoval, and the California correctional peace officers who both came from out of town to be with us today.

We are here today to look at Federal immigration policy and we believe that it has failed local communities. Local and State jurisdictions are ultimately responsible for the health, education, safety, and welfare of all of its residents and they must have a greater voice in Federal immigration policy.

What I hope to accomplish today is to build a strong congressional record to help policymakers understand the impact of their actions on the communities that I represent, and communities throughout this country. This testimony will be used to develop a strong case to help convince Congress and the administration that

it needs to appropriate money for authorized programs, that it needs to quit placing mandates on us without paying for the cost of Federal policies, that it needs to take strong actions to prevent new tides of illegal immigration if NAFTA goes into effect, that we need to prevent expected increase in drug trafficking from Central America into California, and that criminal aliens convicted of felonies need to be deported without delay. The INS needs to do a better job and we must reach a consensus on immigration matters in this community so that we do not become overridden with discrimination, bigotry, ethnic rivalry, and even violence.

We have benefited from the contributions of newcomers and all Californians must never forget that; yet the pressure is mounting. We are experiencing high unemployment rates, a prolonged recession, budgetary shortfalls at the local and State level, and gang activity is increasing. These are important issues to Merced County as well as the entire central valley in California. Here, we have a 21 percent unemployment rate and, in 2 years, the single largest employer in this county, Castle Air Force Base, will close down. This community cannot afford unfunded Federal mandates.

The witnesses here today have seen firsthand what the absence of a fair Federal reimbursement policy costs local communities. Today they will testify to us how Federal immigration policies are hurting us at home. We have been provided some funding from the Federal Government this year but the reimbursement for criminal justice or refugee programs are nonexistent and inadequate. We will continue the fight to secure Federal funding and we must look at additional alternatives.

Now most of you in this audience have heard me talk about a bill that I introduced, H.R. 140, that would end the practice of placing unfunded Federal mandates on local and State governments. I have been pressuring the subcommittees that have jurisdiction over this issue and hope that they will be conducting hearings on the issues in the near future. We are going to keep talking to them about it; and my friend from Minnesota is also assisting me in trying to pressure the full committee to take a look at this issue.

I am also in the process of developing legislation that would create a trust fund based on fees to foreigners that would visit the United States; and we will be asking for your thoughts on that as this bill develops. This would be used to reimburse States and counties for the costs of incarcerating undocumented residents.

INS operations in the State and local communities can contribute to the problem. We think that they must be part of the solution. For example, there are Border Patrol stations in the interior of the State, miles from the border, and we are going to be questioning why that is happening. The Border Patrol needs to be patrolling the borders, not doing work of the investigators. However, Border Patrol needs to be adequately funded as well.

Inadequate funding has also led to the situation where Federal correction facilities are 40 percent above capacity. There are a shortage of INS detention centers. It is unrealistic to think that we can solve the problem by transferring convicted felons to these prisons.

I have introduced legislation that would provide for military bases scheduled for closure to be transferred to INS. I am asking

the Department of Justice to transfer criminals, illegal aliens that have been sentenced by counties and States, to those facilities. The prisoners transfer program with Mexico also needs to be strengthened and we will hear more about that idea from the California correctional peace officers, who several months ago came in to see and we had a major discussion about that; and we think they have some worthy thoughts that we should be considering.

The Department of Justice and the INS have plenty of plans and strategies on how to deal with criminal aliens and how to improve internal operations. This subcommittee, while it does not have total legislative jurisdiction, will continue to demand accountability from the INS.

We are delighted to have all of you here today. I would ask that, if you have lengthy statements, written statements like I just read, do your best to include those in the record and highlight your remarks. We are here to have a discussion today about how INS impacts local government and local communities. We are going to collect this information and we are hopefully going to present it to the administration and to Congress so that we can make some change that is good for everyone. So we really want to cut through this and try to get down to what is important.

I would turn to my colleague, Mr. Peterson, and ask if he has any opening statements he would like to make.

[The opening statement of Mr. Condit follows:]

Opening Statement
CHAIRMAN GARY A. CONDIT

Information, Justice, Transportation, and Agriculture Subcommittee

Field Hearing
"The Impact of Federal Immigration Policy
and INS Activities on Communities"

Wednesday, June 2, 1993
Merced, California

The Subcommittee on Information, Justice, Transportation, and Agriculture is conducting this hearing today because federal immigration policy has failed to take local communities into consideration. Local and state jurisdictions are ultimately responsible for the health, education, safety and welfare of all of its residents. They MUST have a greater voice in federal immigration policy. What I hope to accomplish today is to build a strong congressional record based on the testimony of our witnesses.

This testimony will be used to develop a strong case to help convince Congress and the Administration that it needs to appropriate money for authorized programs. It needs to quit placing mandates on us without paying for the costs of federal policy. It needs to take strong action to prevent new tides of illegal immigration if NAFTA goes into effect. We need to prevent the expected increase in drug trafficking from Central America into California. Criminal aliens convicted of felonies need to be deported.

Furthermore, INS needs to do a better job. We must reach a consensus in the community -- so that we do not become burdened with discrimination and bigotry, ethnic rivalry and violence. We have benefited from the contributions of newcomers and all Californians must never forget that. Yet the pressures are mounting. We are experiencing high unemployment rates, a prolonged recession and budgetary shortfalls at the local and state levels.

Gang activity is increasing. This is an important issue for Merced County. We have a 21% unemployment rate and in two years the single largest employer in this county, Castle Air Force Base, will close down.

This community can not afford unfunded federal mandates. The witnesses here today have seen first hand what the absence of a fair federal reimbursement policy costs local communities. Today they will testify as to how federal immigration policies are hurting us at home. We have been provided some funding for State Legalized Impact Assistance Grant (SLIAG) this year, but reimbursement for criminal justice and refugee programs are nonexistent and inadequate.

-more-

While we continue the fight to secure federal funding, we must also look at other alternatives. In order to bypass the normal appropriation process, I have developed legislation that would create a trust fund based on a fee on foreigners who visit the United States. This would be used to reimburse states and counties for the costs of incarcerating undocumented residents.

INS operations in the state and local communities can contribute to our problems. Part of the problem is funding -- but there are also organizational problems. For example, there are border patrol stations in the interior of the state, miles from the border. Border patrol needs to be patrolling the border, not doing the work of investigations.

Inadequate funding has also led to a situation where federal correctional facilities and detention centers are around 40 percent above capacity. It is unrealistic to think that we can solve the problem by transferring convicted felons to these prisons. However, we may be able to work out a proposal to transfer military bases to the Department of Justice to house criminal aliens that have been sentenced by counties and states.

The prisoner transfer program with Mexico also needs to be strengthened, and we will hear more about this idea from Mr. Thompson. The Department of Justice and the INS have had plenty of plans and strategies on how to deal with criminal aliens and how to improve internal operations.

This Subcommittee, while it does not have legislative jurisdiction, will continue to demand accountability and action from the INS.

Mr. PETERSON. No, I really don't, Mr. Chairman, I just want to thank you for inviting me to your district. You have a lot nicer weather here than we have been having in Minnesota.

Mr. CONDIT. We know that.

Mr. PETERSON. Except I am cooped up here in this room.

We look forward to hearing the testimony and I appreciate the invitation. We would like to get you to come up to Minnesota. I have just come back from Canada; I've been up there two times in the last 2 weeks talking about border issues between the United States and Canada. We have some similar type of issues up our way so maybe we can have you come up and see what the real world looks like up north.

Mr. CONDIT. We will actually do that. Collin has mentioned that to me several times and we are going to try to do that.

We have Dan Naatz here with us today, who is from the ranking Republican member's office, and Mr. Craig Thomas, who is from Wyoming. We are honored to have them here today. I have to say to Mr. Thomas, who has been most helpful and most cooperative in trying to operate this committee and we appreciate Mr. Naatz being here today.

To my right is Shannon Lahey, who is my staff director for the subcommittee and she has done a lot of work on this and we thank her very much for being here as well today.

So let's begin with the witnesses.

Mr. Shaw is the Assistant Commissioner of Investigations from Washington; he is accompanied by Mr. Rogers, who is staff assistant for field operations of the western region. And so what I am going to do is have Mr. Shaw present his testimony. Mr. Shaw has agreed to spend a few minutes sitting up here with us, listening to some of the witnesses from the first few panels. So we appreciate Mr. Shaw doing that; we think that is appropriate if he can do that.

Mr. Shaw, proceed.

STATEMENT OF JACK SHAW, ASSISTANT COMMISSIONER, INVESTIGATIONS, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE, ACCOMPANIED BY RICHARD K. ROGERS, STAFF ASSISTANT, FIELD OPERATIONS, WESTERN REGION; AND CINDY WISHINSKY, BRANCH CHIEF, CRIMINAL ALIEN ACTIVITY

Mr. SHAW. Chairman Condit, thank you.

I have also brought Ms. Cindy Wishinsky with me; she is my branch chief for criminal alien activity.

Mr. Chairman, Congressman Peterson, members of the subcommittee: I am pleased to have this opportunity to appear today on behalf of the Department of Justice and the Immigration and Naturalization Service to testify on the issue of criminal aliens.

INS regards the criminal alien threat as a major public safety issue. We are gratified to know that the members of this committee share our concerns over aliens who commit serious crimes within our borders. Our goal is simple: Identify, locate, and deport criminal aliens expeditiously.

Criminal aliens strain the resources of our overextended criminal justice system, whether at the Federal, State, or local level. Each

year, the number of criminal aliens processed through the criminal justice system increases dramatically. The INS is sensitive to the problem and has developed a solid strategy to attempt to stem that increase.

The goals of the Immigration criminal alien strategy are: One, to systematically identify, locate, and initiate removal proceedings against criminal aliens, whether or not they are incarcerated; two, to ensure expeditious deportation of convicted criminals, consistent with due process requirements; and three, create an effective deterrent against aliens seeking U.S. entry for the purpose of engaging in criminal activity.

In order to accomplish these goals, the INS, some years ago, implemented the Alien Criminal Apprehension Program in 1986, just prior to the passage of the Immigration Reform and Control Act which kind of eclipsed the strategy that had just been referred to the Congress and put in place.

So two things occurred in 1986: A coordinated strategy promulgated by the INS and a massive Immigration Reform and Control Act that, for the first time, gave a surge in resource increases after a 10-year lapse. In other words, enforcement resources in the Immigration Service, investigative resources, had been in decline for 10 years, each year going down further until the Immigration Reform and Control Act gave us a substantial boost or a shot in the arm.

Our operations target alien narcotic traffickers, convicted aggravated felons, recidivists, and alien criminals representing risks to public safety.

The criminal alien problem we recognize is especially acute in California. Nationwide, the INS Investigations program identified and placed in deportation proceedings over 36,000 criminal aliens during fiscal year 1992. Of that number, approximately 15,600 were encountered within the State of California, 43 percent of the Servicewide total.

In addition, more than 60 proactive operations targeting violent criminal alien groups and organizations, including Asian organized crime groups, were conducted within the State of California.

The criminal alien population within the California State prison system continues to grow steadily. Currently, 16 percent, or almost 18,000 prisoners, of the total population of 111,000 incarcerated in California State prisons have been identified by INS as criminal aliens. This is compared to 12 percent in June 1991. So, in a year's time, the percentage has gone from 12 to 16 percent. Many are aggravated felons or have committed criminal offenses which make them eligible for immediate deportation.

INS personnel have met with California Department of Corrections officials and representatives from California county jail institutions as part of a continuing effort to address the criminal alien problem. As a result, numerous innovative programs, which I am prepared to discuss today, or respond to questions on, have been developed to address the problem.

The principal activity that we are involved in now, nationwide, to address this problem is called the Institutional Hearing Program. INS has established centralized locations at Federal, State, and local correctional facilities for faster identification of incarcer-

ated criminal aliens in coordination with the Institutional Hearing Program to expedite administrative deportation hearings.

The IHP, or the Institutional Hearing Program, is a cooperative effort between the Executive Office of Immigration Review, the judges who hear the cases; the Immigration Service, who prepares the cases; and the impacted correctional agencies who are actually providing cell space to the incarcerated population. This approach enables the INS and the Executive Office of Immigration Review—the judges—to begin deportation proceedings for aggravated felons and other criminal aliens during their period of incarceration so that, upon the completion of their sentence, they have had a deportation hearing, a final order, a travel document, and a transportation ticket across to the nearest airport.

Within California, there are three institution hearing programs today: R.J. Donovan State Prison, San Diego; Calipatria State Prison, Calipatria; and Los Angeles County Jail in Los Angeles.

Since the inception of the first Institutional Hearing Program in California at Donovan in 1988, over 5,000 criminal aliens have been deported directly from correctional facilities in California. The success of the Institutional Hearing Program is a direct result of the efforts and commitment of Federal and State government working together. With the success of these Institutional Hearing Program sites, INS is now working to expand to other locations within the State through the cooperation of the Department of Corrections: Mount Signal and Pleasanton Federal Correctional Institution.

In the interest of brevity, Mr. Chairman, I'm rapidly turning to the last pages of my statement; and then I will be available to respond to questions.

Of specific interest to your constituents, Mr. Chairman, is that, in 1992, according to the California Department of Corrections, 143 foreign-born persons were committed to State prisons for felony convictions from Merced and Stanislaus Counties. Of that number, 55 have been interviewed by INS agents and are believed to be deportable. The process has begun.

INS agents continue to interview the remaining individuals to determine whether they are subject to deportation on criminal grounds. If so, the INS will lodge detainees with prison officials to ensure their release to the INS upon completion of their sentences. The INS recently deported seven aliens who resided in either Merced or Stanislaus County at the time of their arrest. They had completed required time under the following sentences: 3 years for transportation and sale of cocaine; 3 years for sexual battery; 6 years, 4 months for the sale of a controlled substance; 6 years for sales of a controlled substance; 6 years for forcible rape; 11 years for lewd acts on a child and attempted sodomy; and 4 years for the sale of heroin.

We are certain you share our belief that deporting these criminals improves the quality of life for your law-abiding constituents in beautiful San Joaquin Valley.

The INS deals with alien crime in Stanislaus and Merced Counties in other ways, as well. For example, in late 1991, the INS Fresno suboffice conducted an investigation in Livingston that led to the arrest and conviction of an individual who was charged with

manufacturing and selling fraudulent green cards and fraudulent entry stamps. These documents can be used to obtain employment, social services, and other benefits.

In another case, on October 8, 1991, an individual pled guilty in a Federal court to six felony charges including one count of engaging in a continuing criminal enterprise and crimes relating to illicit narcotics. Other members of his enterprise were indicted and convicted of various drug-related offenses. This investigation, also in Livingston, was jointly managed by Federal, State, and local law enforcement officers, including INS.

In conclusion, the Immigration Service will maintain its high level of concern and responsiveness in the identification, apprehension, detention, and removal of deportable criminal aliens, whether or not convicted or incarcerated. It is essential that criminal aliens be identified, tracked, and removed from the United States. We intend to do all we can to meet that challenge and seek your support for our efforts.

That concludes my statement. I would ask that my full written statement be included in the hearing record and I will be happy to answer any questions you may have.

[The prepared statement of Mr. Shaw follows:]

Testimony of

Jack Shaw

Assistant Commissioner for Investigations
Immigration and Naturalization Service
Department of Justice

Regarding Criminal Aliens

before the

House Government Operations Committee
Subcommittee on Information, Justice,
Transportation and Agriculture

Wednesday, June 2, 1993
Merced, California

Mr. Chairman, and distinguished members of the Subcommittee on Information, Justice, Transportation and Agriculture:

I am pleased to have this opportunity to appear today on behalf of the Department of Justice and the Immigration and Naturalization Service (INS) to testify on the topic of criminal aliens. INS regards the criminal alien threat as a major public safety issue. We are gratified to know that the members of this Subcommittee share our concern over aliens who commit serious crimes within our borders. Our goal is simple: identify, locate and deport criminal aliens expeditiously.

Criminal aliens strain the resources of our overextended criminal justice system, whether at the federal, state, or local level. Each year the number of criminal aliens processed through the criminal justice system increases dramatically. Criminal alien deportations increased to 18,297 in FY 1993, double the level of FY 1990 and nearly 30% more than FY 1991. The INS is aware of the problem, and has developed a solid strategy to stem that increase.

The goals of the INS Criminal Alien Strategy are:

- 1) To systematically identify, locate, and initiate removal proceedings against criminal aliens, whether or not incarcerated;

- 2) To ensure expeditious deportation of convicted criminals, consistent with due process requirements; and
- 3) To create an effective deterrent against aliens seeking U.S. entry to engage in crime.

In order to accomplish these goals, the INS implemented the Alien Criminal Apprehension Program (ACAP) in 1986. ACAP is both proactive and reactive - the program pursues the systematic detection and arrest of criminal aliens within the U.S., both before and after incarceration.

The INS's proactive operations are characterized by close cooperation between the Service and other law enforcement and criminal justice agencies. Our operations target areas of mutual concern - alien narcotic traffickers, convicted aggravated felons, recidivists, and alien criminals representing risks to public safety.

Reactively, INS special agents are assigned to the task of locating and identifying alien offenders within the criminal justice system to institute deportation proceedings for removal.

The criminal alien problem is particularly acute in California. Nationwide, the INS Investigations program identified and placed in deportation proceedings over 36,000 criminal aliens during Fiscal Year 1992. Of that number,

approximately 15,600 were encountered within the State of California--43 percent of the Servicewide total. In addition, more than 60 proactive operations targeting violent criminal alien groups and organizations, including Asian organized crime groups, were conducted within the State of California.

The criminal alien population within the California state prison system continues to grow steadily. Currently, 16% (17,596) of the 111,415 inmates incarcerated in California state prisons have been identified by the state as foreign-born. This is an increase from 12% (12,843 foreign-born in a total population of 101,593) in June of 1991. Many are aggravated felons, or have committed deportable offenses.

The California Department of Corrections projects that the state's inmate population will grow to over 160,000 by the end of 1995. Thus, more than 25,000 criminal aliens incarcerated in California will need to be identified and processed for removal from the United States. In addition, our experience reflects that the alien populations in municipal, county, and federal correctional facilities increase at corresponding rates with those in state prisons.

INS personnel have met with California Department of Corrections officials and representatives from California County Jail Institutions as part of a continuing effort to address the

criminal alien problem. As a result, numerous innovative programs have been developed to address the problem.

Institutional Hearing Program

The INS has established centralized locations (chokepoints) at federal, state and local correctional facilities for faster identification of incarcerated criminal aliens together with the Institutional Hearing Program (IHP) to expedite administrative deportation hearings. The IHP is a cooperative effort between the Executive Office of Immigration Review (EOIR), the INS and various correctional agencies which enables the INS and the EOIR to begin deportation proceedings for aggravated felons and other criminal aliens while incarcerated. The program significantly reduces INS detention costs by ensuring immediate deportation and removal from the United States upon completion of sentence.

Within California, there are three IHP programs:

- 1) R. J. Donovan State Prison, San Diego
- 2) Calipatria State Prison, Calipatria and
- 3) Los Angeles County Jail, Los Angeles

Since the inception of the first IHP program in California at R.J. Donovan in 1988, over 5,000 criminal aliens have been deported directly from correctional facilities in California. Estimates on detention savings exceed a million dollars per year.

The success of the IHP program is the direct result of the efforts and commitment of the federal and state government working together. Through continuous liaison with the Executive Office of Immigration Review (EOIR), the state government, the California Department of Corrections (CDC), and the Los Angeles County Sheriff, the Institutional Hearing Program serves the participating agencies and protects the public.

With the success of these three IHPs, INS is anticipating expansion to two other locations within the state: Mount Signal prison (currently scheduled to open in late 1993) and Pleasanton Federal Correctional Institution.

The Clinton Administration has included in the Fiscal Year 1994 budget an investment package to support the prompt deportation of criminal aliens by INS. The budget request for INS includes \$2.3 million for additional investigators to expand the Institutional Hearing Program (IHP). The dedication of this funding to this program will allow its expansion in the five states with the greatest populations of incarcerated aliens as well as to three Federal prison facilities. In addition, \$2.2 million has been requested for the Legal Proceedings program. These resources will provide paralegal and support staff to enhance the ability of INS attorneys to emphasize deportation cases of criminal and other illegal aliens. \$11.0 million has been requested for the Detention and Deportation program for

staffing the expansion of INS's Florence and El Centro Service Processing Centers. These resources will also provide for the increased alien travel, detention and welfare funding needed to efficiently use the additional bedspaces, and to expeditiously deport criminal aliens. In FY 1993 and 1994, ten immigration judges will be added to the Executive Office of Immigration Review in order to increase its capacity to handle deportation and exclusion hearings. A portion of this caseload is criminal aliens.

Criminal Alien File Center

The large number of criminal aliens incarcerated in California facilities requires a tremendous volume of paperwork to initiate deportation proceedings. INS has begun a one-year pilot to test the feasibility and efficiency of file centralization, called the Criminal Alien File Center. File centralization at one location should expedite processing and removal of convicted criminal aliens within the California state prison system.

Each criminal alien's file will remain at the center until the alien is admitted into an Institutional Hearing Program, or INS is notified of impending release. The file will, at this point, be sent to the appropriate INS office so that deportation hearings can be promptly instituted. This specialized file

center will allow a small staff to maintain a steady flow of the California criminal alien cases through the system, and significantly reduce the time INS dedicates to record functions.

Offender Based Information System

The INS and California Department of Corrections have reached an agreement allowing INS personnel direct access to the California Department of Correction's Offender Based Information System, known as OBIS. The OBIS database provides detailed, timely and accurate information on all California state prison system inmates, and includes biographic data, criminal history, past and current warrants and detainees, and specific conviction information.

The utilization of OBIS by INS personnel will immensely assist in the expeditious identification, processing, and removal of criminal aliens within California state correctional facilities. This automated system will reduce Special Agent criminal alien processing time, and provide up-to-the-minute coordination of release and pick-up between our Detention and Deportation units and the correctional facility, saving thousands of dollars per month. It is expected that most California INS offices will have OBIS capability by July 1993.

Operation Double Action

On December 9, 1992, more than 200 criminal aliens were arrested in a coordinated five state round-up by the INS, called "Operation Double Action". The operation, involving INS agents in California, Arizona, Texas, Florida, and Louisiana, targeted criminal aliens convicted of serious crimes such as murder, rape and drug offenses. The aliens taken into custody had been processed through the criminal justice system and were either on probation or parole. Close coordination with various probation and parole officials, as well as local, state and federal law enforcement agencies, was essential for effective implementation of this initiative. Based on an approximate cost of \$2,500 a year to keep an individual on probation or parole, the Los Angeles apprehensions alone will save California more than \$60,000 in administrative expenses.

Five State Criminal Alien Model

As part of the effort to identify and process criminal aliens in state correctional systems, the INS initiated a Five State Criminal Alien Model. This project focuses limited INS investigative and trial attorney resources on states having the highest concentration of foreign born inmates. These five states are: California, New York, Texas, Florida, and Illinois.

(California has as many foreign-born inmates as the other four states put together.)

Through discussion and agreement among the INS, the EOIR, State Governors and the States' Attorneys General, the Five State Model facilitates cooperative efforts with criminal justice agencies to improve the identification, processing and removal of criminal alien inmates. Although no formal agreement exists between the INS and State of California, cooperation and commitment given to the INS by the state has been extraordinary. The State of California Executive Order B-91991, signed by former Governor Deukmejian on January 2, 1991, mandated that the California Department of Corrections "pursue an aggressive cooperative agreement with the Immigration and Naturalization Service to ensure an expedited deportation hearing process and the subsequent placement of deportation holds on undocumented aliens incarcerated in State prisons." We welcome that support.

Section 507, IMMACT '90

Section 507 of the Immigration Act of 1990 requires states to ensure, as a condition for receipt of federal drug control and system improvement grants, establishment of plans to provide to the INS, without fee, notice of conviction of aliens who have violated the criminal laws of the state. Additionally, it requires the states to provide the INS with certified records of

conviction within 30 days of the date of a request by the INS. This provision of the Act supports the INS in obtaining the certified records necessary to place a criminal alien into expedited deportation proceedings.

The INS and the Bureau of Justice Assistance (BJA) have been working closely with the states to implement this section of law. To date, over 80% of states are in full compliance. BJA approved Phase I grant money for California in August 1992. Phase II of the plan establishes the mechanisms and procedures for the transfer to INS of records for all convicted aliens. Also to be addressed during this phase are such issues as how aliens will be identified, where in the criminal justice process identification will occur, and which agency will be responsible for providing the information to INS. California has yet to receive approval for Phase II, due in part to the necessity to address concerns regarding ordinances passed by certain cities and counties prohibiting law enforcement personnel and other employees from assisting and cooperating with INS.

Despite this issue, the INS has received exceptional cooperation from the State of California. All dealings with California Department of Corrections personnel, and most local facilities and courts throughout the state, have been extraordinary. The combined efforts have resulted in the generation of monthly lists of foreign-born inmates incarcerated

within the state penal system. It is hoped that localized listings for the larger city and county correctional institutions can be generated in the near future.

To address the issue of funding for states for criminal aliens incarcerated within the state penal system, Section 501 of the Immigration Reform and Control Act of 1986 authorized the Attorney General to reimburse states for the costs of imprisonment of illegal aliens or Mariel Cubans, who have been convicted of felonies "subject to amounts provided in advance in appropriated Acts."

INS does not have appropriated resources under this section of law to reimburse states for the costs of imprisonment of illegal aliens convicted of felonies. The Department of Justice Office of Justice Programs has received an annual appropriation of approximately \$5 million to reimburse states for the imprisonment of Mariel Cuban felons.

In addition, no mechanism exists to transfer state prisoners to Federal facilities once they are identified as deportable aliens. The INS and the Department of Justice have no authority to detain aliens who have been sentenced by states for violations of state laws.

Rapid identification and determination of deportability of criminal aliens by INS will save the State of California the costs associated with supervising these people on probation or parole after incarceration.

Each year the number of convicted criminal aliens processed through the criminal justice system increases. The INS continues to rely on criminal prosecutions for reentry after deportation to deter the reentry of criminal aliens into the United States. Since May 1991, the Los Angeles District Office has successfully presented 129 criminal aliens for federal prosecution, resulting in 95 convictions and terms of confinement averaging 38.9 months. INS believes that the enforcement of this criminal provision of law provides a deterrent to reentry.

These innovations and commitments by the State of California, local law enforcement agencies and the INS working together have greatly aided in the identification, processing, transportation, and expeditious removal of criminal aliens from the United States. These projects assist in meeting the demands that the criminal alien population places upon the INS, the state, and society.

Mr. Chairman, of specific interest to your constituents in the 18th Congressional District is that, in 1992, according to the California Department of Corrections, 143 foreign-born

persons were committed to state prisons for felony convictions from Merced and Stanislaus Counties. Of that number, 55 have been interviewed by INS agents and are believed to be deportable. These cases will be forwarded to Immigration Judges for final determination.

INS agents are continuing to interview the remaining individuals to determine whether they are subject to deportation. If amenable to deportation, the INS will lodge detainees with prison officials to ensure their release to the Service upon completion of sentence. The INS expects that deportation processing will commence and be completed prior to the end of their sentences. We will also identify aliens placed on probation or parole, so that they, too, can be deported.

The INS has recently deported the following aliens who resided in either Merced or Stanislaus County at the time of their arrest. They had completed required time under the following sentences:

- 1) 3 years imprisonment for Transportation/Sale of Cocaine in Merced County.
- 2) 3 years imprisonment for sexual battery in Stanislaus County.

- 3) 6 years, 4 months imprisonment for the Sale of a Controlled Substance in Stanislaus County.
- 4) 6 years imprisonment for Sales of a Controlled Substance in Stanislaus County.
- 5) 6 years imprisonment for Forcible Rape in Stanislaus County.
- 6) 11 years imprisonment for Lewd Acts on a Child and Attempted Sodomy in Merced County.
- 7) 4 years imprisonment for the Sale of Heroin in Stanislaus County.

We are certain you share our belief that deporting these criminals improves the quality of life for your law-abiding constituents.

The INS deals with alien crime in Stanislaus and Merced Counties in other ways as well. Two examples are:

- 1) In late 1991, the INS Fresno sub-office conducted an investigation that led to the arrest and conviction of an individual, a native of India, who was charged with manufacturing and selling fraudulent alien registration cards ("green cards") and fraudulent entry stamps. The

individual received the materials necessary to produce the fraudulent documents from Thailand. The investigation and arrest took place at Livingston, in Merced County. Alien registration cards can be utilized to obtain employment, social services and other benefits-all to the detriment of your constituents.

- 2) On October 8, 1991, a Mexican national pled guilty in a federal court to six felony charges, including one count of Engaging in a Continuing Criminal Enterprise, and crimes relating to illicit narcotics. Other members of his enterprise were indicted and convicted of various drug related offenses. This investigation was also conducted in Livingston, and was jointly managed by federal, state and local law enforcement, including the INS.

In conclusion, the INS will maintain its high level of concern and responsiveness in the identification, apprehension, detention and removal of deportable criminal aliens, whether or not convicted and incarcerated. It is essential that criminal aliens be identified, tracked, and removed from the United States. We intend to do all we can to meet that challenge. We seek your support for our efforts.

I thank you for your attention. I would be happy to answer any questions you may have.

Mr. CONDIT. Thank you, Mr. Shaw. Do either one of your staff people want to make a comment or statement for the record, sir?

Mr. SHAW. No I don't think so. But they certainly will assist me.

Mr. CONDIT. So that I understand and everyone in the audience understands, could you explain to me the five State criminal alien model which will focus on supposedly California or five States; can you do that for me?

Mr. SHAW. Right. With the emphasis in the Immigration Reform and Control Act of 1986, Congress recognized, based on INS's submission of an earlier strategy, that we had a severe problem in this country that needed to be coordinated with regard to identification and tracking through 50 State systems of criminal alien populations that are spread out through 3,200 penitentiaries or major metropolitan jail and penitentiary locations. INS has 70 locations that span the 50 States with 15 to 20 officers sometimes in those locations, some of the larger cities, larger complements of staff.

We did a survey in 1991 and we determined that, based on our best numbers, 81 percent of the estimated criminal alien population was concentrated in five States. We began systematically, in 1987, to carry out the criminal alien strategy that we sent to the Congress in September 1986. Now, that was overtaken by major pieces of legislation which kind of arrested the public's attention to legalization, to a massive employers' sanctions program, and to efforts to strengthening border enforcement.

But the strategy begun in 1986 basically delineated Illinois, Florida, New York, Texas, and California as the most populous States with regard to incarcerated alien populations. We began, then, systematically to set up a series of choke points. And, over time, all of these activities are going on simultaneously in all the five States.

It is a misinterpretation or misunderstanding to believe that we started in Illinois, worked slowly toward Florida, then toward Texas, New York, and then are waiting last of all to put our shoulder to the wheel with regard to California. What we have done in the five States, while all the activities and attempts to coordinate Federal and State resources in those areas to improve our ability to identify, track, set up hearings, and expeditiously remove has gone on in the five States. I have been onsite in the first four States, Illinois, New York, Texas, and Florida, and have, in fact, done onsite reviews of our processes and made some adjustments.

What we have not yet done is an onsite review in Texas or California. Part of that is because Mr. Rogers here has been my western regional coordinator; he knows more about the California State penal systems than I do and he has been in Laguna Niguel coordinating and working out the details of expanding the Institutional Hearing Programs that I just referred to. But what we have not done is an onsite assessment of how well the California system is working.

I have reason to believe it is working within our resource limits quite well; and that gets to my next issue that, at the same time that we are introducing mechanisms and making proposals to carry out initiatives and introduce innovations in how we identify more effectively and process criminal aliens, over the last 3 years my resources in the interior have been in attrition. That means each

year I have less people to do the work that we are going to talk about here today than I had the year before. And that has to do with something called the national deficit and congressional concerns over how to fund initiatives and innovations, however well-designed they appear to be.

So once again, the Immigration Service, just as it was in 1986 before the Immigration Reform and Control Act was passed, is looking at excellent laws, very clear provisions of its responsibilities and how to coordinate with the States and how to introduce mechanisms in order to get a handle on this problem, this problem of considerable magnitude, the criminal alien problem, at the same time that, because of declining budgets and domestic spending cuts, our resources are, in fact, being lessened.

I have come here today, I make a good faith effort, to explain a number of innovations that we are trying to do. The key to our criminal alien problem is, yes, in those five States, concentrate on the criminal alien population. Last year, 1992, we sent Congress a report; it was a requirement in the Immigration Act of 1990 to conduct a national criminal alien census, to do a survey. Cindy, here, designed the survey instrument; we surveyed every penitentiary, every county jail, every police jurisdiction in the United States and we submitted to Congress at that time, in 1992, an estimate of the size of the incarcerated population of 57,000 foreign-born nationals, most of whom will be criminal aliens, most of whom will be eligible for deportation, some of whom may be naturalized U.S. citizens and, once identified, will not be available for that approach.

But we sent the report to the Congress, 57,000, and the recommended approach in that report was to rapidly expand, as fast as we could, immigration judges and as fast as we could expand the Institutional Hearing Program in 50 States, the most populous of which are 5 that I have named. And that is the course that we are embarked on.

And then, after we concentrate on this incarcerated population, we have to find some means of dealing with the parolee and probationers because, while they are walking around in your communities, while they have committed a State offense for which the result, because of limited prison space, the sentence imposed has been parole, probation, or minimum time served, the fact is that those crimes committed constitute, by definition, aggravated felonies. And, if known to INS, those people are all eligible for deportation. That will, however, require more hearings and more criminal alien records located, because the immigration process, the administrative hearing, is a de novo proceeding.

Regardless of what happened in that criminal court of law, when that alien comes in before an immigration judge, that is a new proceeding because deportation is not a criminal sanction, deportation is an administrative process that basically says we, the U.S. Government, is changing your status, and you are not acceptable in the United States, -you do not enjoy legal status and we have here a record of conviction showing that you, on such-and-such a date, committed this crime and that crime constitutes an aggravated felony and we show that you are who we say you are. We establish identity and we produce a certified record of conviction; and that is what section 507 of the Immigration Act of 1990 is about.

I have got 1,600 special agents who spend a great deal of time searching court records trying to obtain the certified record of conviction to present to a judge in an immigration hearing because, if we establish the identity of the alien, that he is whom we say he is, that he, in fact, committed that crime and here is the documentation, the certification, then he gets a final order and he is expeditiously removed.

So all of these things tie together; and I know they impact the States because it costs you money to produce the records. It used to cost us money to stand in line in New York and pay \$15 for a certified record; 15 records, and then go to the back of the cue, even though we are Federal officers, waiting for records in order to handle hundreds of pending deportation cases. But that is the way local government has to work, it has a paperwork burden, it has limited resources. At least section 507 of the act now requires the States to notify INS of foreign-born nationals in its correctional system, foreign-born nationals who have gone through its court system and been convicted of crimes. And that is the beginning of the screening process. It takes INS officers into its criminal justice counterparts in 50 different State criminal justice systems.

And, of course, we have gone one step further now and have expanded or introduced the Institutional Hearing Program so that the alien gets his administrative deportation order. The judge goes to the penitentiary, we set up the hearings in the penitentiary while he is sitting there behind bars, we bring him in, we prepare the file, we get the documentation and witnesses if necessary, we establish identity, we get a final order, and then, when that man or woman leaves that facility or leaves that State prison system, they go out, directly.

That is a long-winded way of explaining what we are doing in the five States.

Mr. CONDIT. That is all right, Mr. Shaw. Those who are sitting up here are used to long-winded answers; those people out there may not be. We listen.

You have made a good faith effort to be here and explain INS and we certainly appreciate that. I would like to, if I could, in a polite way, to pin you down just a little bit on the site visit to California. If you could be specific when that is going to occur, when California is going to be completely incorporated into this program.

It is amazing to me that this project started and California has the greatest population, the biggest problem, and we were not up front in terms of this program. So, if you could maybe be specific in the timeframe in which the site visit is going to occur and California is going to be incorporated fully into this program.

Mr. SHAW. Well, Chairman Condit, I worked out with Mr. Rogers if he would choose to set up a date. The point that I was trying to make is that we started with a smaller State figuring that we would learn by communication problems, telecommunication problems, or lack of resources and how we resolve those resource problems in Illinois before we took on a California.

But, in fact, we feel, Mr. Rogers has done everything in California that we tried to do in Florida, or that we found less of a challenge to do in Illinois. But, specifically, if there is need for onsite visit, let me just say that I spent 4 hours in a Detroit international

airport yesterday so my planned visit to Donovan was wiped out because I wanted to see how.

Donovan is viewed by us a model institution, largely built at the initiative of California correctional specialists, experts, and with the full support of INS. So there is a facility located approximate to the border where we have assigned bed space, that we can direct, channelize criminal aliens into, hold hearings as often as needed, and have a high level of productivity for criminal alien final orders and removals coming out of the State prison system.

Mr. CONDIT. Mr. Rogers, do you have a timeframe you can give me?

Mr. ROGERS. It is our opinion, here in the western region, that the California system in the program now is the best in the country. We welcome a site visit at any time but we do believe that we have the best cooperation with the State of California and a site visit would only encourage other States to get involved the way we have in the State of California.

Mr. SHAW. But if Mr. Sandoval wants to set up a date or a place, I will be most happy for my staff, myself, to do the onsite visit to California.

Mr. CONDIT. Mr. Sandoval will be up here any minute. Maybe we can make arrangements, if that is his desire and everyone else's desire, to set a date for the visit.

Mr. Peterson has some questions; I don't want to take up all the time.

Go ahead.

Mr. PETERSON. I don't know too much about all of this, so my questions might not be too smart. Do you have people on the border?

Mr. SHAW. Yes, the Border Patrol is the uniform branch or the uniform division of the Immigration Service and their principal mission is border interdiction, stopping the aliens in the process of attempting illegal entry.

Mr. PETERSON. Evidently, in 1990, the GAO put out a report that basically said that the information is not available. Is that true, that the information on these people is not available? Do you know what I am talking about?

Mr. SHAW. No, Mr. Peterson. Information on what?

Mr. PETERSON. Well, it was a 1990 GAO report that said that:

Criminal aliens who have been convicted and jailed for committing felonies such as homicide may avoid being deported because information is not readily available. The Service may not be able to find and deport criminal aliens because it cannot determine the aliens' location or status within the judicial process. INS-wide information systems cannot easily share in electronically-exchanged data; field staff must make separate inquiries into the system to investigate the background of criminal aliens.

GAO also reported that the systems which helps INS monitor aliens may contain inaccurate data. Are you familiar with that report?

Mr. SHAW. No, not specifically. But, I mean, these charges have a familiar ring to them. I am generally familiar with the problem.

Mr. PETERSON. Well, you don't have a data base?

Mr. SHAW. We do not have a national data base for criminal aliens.

Mr. PETERSON. Do you have a data base for aliens?

Mr. SHAW. Yes, a central index for every alien known to INS in the United States and we are going down the path of developing a case tracking system. But INS has not moved rapidly in the area of automation.

Mr. PETERSON. So, you have a data base, but the States cannot interface with it and you cannot share information. Is that basically the problem?

Mr. SHAW. We can on a local level. I am sure that we respond to inquiries from States. I think what you are getting to is an initiative which came out of the 1986 Anti-Drug Abuse Act and which Attorney General Barr approved in the final months of his administration and that is, INS has proposed to establish a criminal alien tracking center that would operate 7 days a week, 24 hours a day, 365 days a year; it would be for the specific purpose of providing a response to queries from State and local police concerning a suspected alien, aggravated felon, or narcotic offender in custody.

We have made proposals to the Congress in the last 3 budget years, we have explained that process, and we have sought funding support to establish such a center. Before Barr left office as attorney general, he designated the location as South Burlington, VT; it could be located in any State or any city in the United States. It relies on secure communication through the NLET's, the national law enforcement telecommunication, an existing system. INS would pay \$1,500 to \$2,000 to tie into that existing system and we would then give an online response to any police officer, any time of day, who had a suspected aggravated felon in custody. That is the closest we would come to begin building a national criminal alien data base.

Mr. PETERSON. But you were not given the money to do this. Is that the deal?

Mr. SHAW. We have sought it in the last 3 budget years and it has rolled over into each successive year.

Mr. PETERSON. It was not funded, in other words?

Mr. SHAW. It was not funded.

Mr. PETERSON. I have sat and listened to similar tales from I don't know how many different agencies since I have become chairman of this subcommittee and I have been working on these information systems and I hear the same story out of the Department of Labor, out of HUD, that they do not have the resources, that they have less people, they cannot do this and they cannot do that. Has anybody ever thought about doing something different?

I mean, we seem to be so locked into doing things the way we have always done them. I just came from Canada and we were meeting with members of Parliament who were trying to figure out how to deal with all of these nonimmigration border problems. We have also been working a lot on the free trade agreement. I think the best thing we could do for free trade is to get rid of these border crossing stations, get rid of all the personnel on the border, put up a sign like they have between Sweden and Norway that says "Welcome to America," or "Welcome to Canada" and do things differently.

If we had everybody on a data base in every country and we were actually serious about having this information and sharing it, we would not need all of these people sitting on the border. I mean,

we have credit card technology now. You stick your card in the machine and a merchant can find out everything about you, but, in the government, we do not have any of that stuff.

We fight about gun control. We tried to put a provision in when we had this last gun control fight; we cannot find out who are felons because we do not have a data base and the people that want us to have waiting periods fought us to set up a data base. We go through this with agency after agency.

I just get frustrated that we are so fixated on maintaining all of these positions. Maybe it is time for us to start looking at doing things differently, and taking the money and spending it differently.

And there will be some painful things that will happen. There will be people laid off, there will not be as many people working and so forth, but a lot of these things are not getting done the way that we are doing them.

Mr. SHAW. We might have a philosophical difference on that. I think we have done some good planning and I think that immigration control is a massive problem and adding a few inspectors at international ports of entry and adding border patrolmen at the border is not alone going to solve the problem. It has got to be looked at comprehensively and I think this Nation cries out for a coherent set of strategies to deal with the phenomenon of illegal immigration and I am not sure, in the days of terrorism and bombing world trade centers, that we necessarily want to say that whoever wants to come, come.

Mr. PETERSON. Yes, but if I wanted to blow up New York City, all I do is put a bomb in a King Air and fly it in there and nobody would ever catch me. Up on our border, if you want to smuggle drugs, we have 10 roads within 50 miles that you can drive across the border. There is no Border Patrol. Everybody knows where the roads are. Or you could come across the lake; it is 50 miles across. Who are we kidding?

All this money we are spending, I am not sure what good it is doing other than to harass our citizens when they come across the border.

Does every alien have a card now?

Mr. SHAW. Every alien known to INS.

Mr. PETERSON. If they do not have a card and they show up some place, what happens to them?

Mr. SHAW. They are returned to their country of origin if it is a third world and, if it is a country other than Mexico, they are placed in administrative proceedings, held for deportation.

Mr. PETERSON. Do aliens have a card? How come they don't have a card?

Mr. SHAW. Aliens have a card? Illegal aliens?

Mr. PETERSON. Yes.

Mr. SHAW. They have false documents; they have fraudulent documents. But most of them come to the United States as illegal, they come in with the clothes on their back and they buy their documents when they get here, Social Security card, driver's license, something to establish their identity.

Mr. PETERSON. You cannot check to see that those are right or wrong?

Mr. SHAW. I think there are 7,000 licensing issuing bureaus, not only at the State but at the county level.

Mr. PETERSON. And nobody can tie all of this together and figure out what is going on?

Mr. SHAW. I think our Federal system of criminal justice is a limited system, it is a distributed justice system; we do not have a national police force. That is why it is very complicated to deal on any issues at the Federal level, as you may talk to Customs on this issue, and Immigration on this, and the Drug Enforcement Administration on that. We do not have a sortie or a national police agency.

Mr. PETERSON. Don't you think it would be good if we had a national data base?

Mr. SHAW. Well, we have talked about that under employer sanctions. We have some suggestions and proposals, how to improve the system of documents; but, when the Congress in its wisdom decided that immigration reform had been debated for 14 years and it was now time to pass the act in 1986, they started with the existing system of documents. We created a whole program out of new cloth called employer sanctions, and we have tried to perfect that or work out the kinks in that system over the past 6 years.

But, as you have heard, as you well know, an alien with \$35 can go out and buy a Social Security card and a driver's license and short circuit the system because that system does not require him to identify himself as an alien and show an immigration document.

Mr. PETERSON. Mr. Shaw, can you identify who he buys these documents from?

Mr. SHAW. Oh, from cottage industry salesmen, vendors.

Mr. PETERSON. Have you targeted those people? I mean, what have we done?

Mr. SHAW. We bring hundreds of prosecutions each year for document vendors, hundreds, counterfeiters.

Mr. PETERSON. How many in California? Do you know?

Mr. SHAW. I would have to research and come up with a hard number. Some of our biggest cases have been in Los Angeles. One that came up last year was a Korean counterfeiter, a printing press operator; we seized his printing presses, we seized \$70,000 in hard currency; we seized 250,000 counterfeit immigration documents in one raid.

Mr. PETERSON. What happens if you put that Social Security number into the system; what does it tell you? If you went to the Social Security office and gave them that number, what would they say?

Mr. SHAW. Oh, they would verify that number.

Mr. PETERSON. And they would verify it does not exist or it is wrong?

Mr. SHAW. That is right, or they reject it, or they would tell you that 600 other people are using the same number.

Mr. PETERSON. And we don't know that? I mean, we cannot tie all this together with information?

Mr. SHAW. No because Social Security Administration argues that it is a number, it is not a card, it is not an identification document, they don't have to be worried about the security of the document. It must mess up their system of tracking benefits but the

fact is they argue it is not an identification card and therefore it is not cost effective. It is a major cost estimate of considerable magnitude to issue, from cradle to death, a Social Security card that would change according to the marital status or whatever even occurred in that cardholder's life.

I would support a system of improved identifiers. I would support, and the Immigration Service is on record and testified recently to, a single document that could be issued to every person in the United States who is authorized to work, for work purposes only.

Mr. PETERSON. Private industry in the financial community uses these Social Security numbers. Who are we kidding? I mean, that is how they get all this information on everybody. Yet we don't do it because we are somehow or another protecting people. I mean, it just seems crazy.

Mr. SHAW. Well, the critics have always railed the appearance of the national identity document.

Mr. PETERSON. What is so bad about that?

Mr. CONDIT. There is a debate going on in Congress right now about the possibility of such a document. This subcommittee has some jurisdiction in that; we have been working and had dialog with Congressman Stark about such a document. It is a difficult task because there is a variety of people who get involved in this that cause a lot of problems. But it is a point that we obviously should look at.

Mr. Peterson, did you conclude?

I just want to followup if I may. You described 60 operations targeting violent criminal alien groups, Asian organizations, crime groups within the State of California during 1992. I would just like for you to tell us what the results were and can you tell us numbers, convictions, and types of crimes?

Mr. SHAW. I am sorry, Mr. Chairman, I don't have the summary with me. But, in February 1992, Attorney General William Barr directed the Immigration Service immediately to shift 150 of its agents to concentrate in 36 cities, 16 being on the tier I, major cities; Los Angeles was among them, San Francisco was among them, San Diego was among them. And we immediately shifted resources, investigators, not new people but people from assigned duties who immediately were violent gang task forces.

I get reports on a monthly basis from each of the violent gang task force participants in each of the 36 cities. I will be glad to give you a summary of information, accomplishments, major cases.

Mr. CONDIT. Well, can you just give me an overview opinion, since you get reports on this on a regular basis, is it successful or is it not successful?

Mr. SHAW. It is more successful than if Immigration was not participating as a member of organized Federal task forces. We have the language capability, we have the background on cultural, on ethnicity, on foreign groups involved. We are very successful in San Francisco with regard to Chinese. In the southern part of the State, Vietnamese gangs are becoming more of a problem.

We try to work with local police. I don't think we have turned the corner yet on having the resources to put into that effort.

We are supporting many balls in the air at one time, document fraud; employer sanctions enforcement, since most aliens come here to seek work, not to participate in crime; we have a new phenomenon called the Chinese boat lift, the boat arrivals now. We have had 20 boats come into the United States with 150 or more Chinese, illegal PRC Chinese, on board; that is the most recent phenomenon. We have criminal aliens both incarcerated as well as proactive gangs in the streets that we try to commit resources to.

I think I have pretty well covered the competing pressures on the Immigration Service to work with State and local law enforcement with regard to illegal aliens involved in serious criminal activity, most of whom are eligible for deportation once identified.

Mr. CONDIT. You talked about the budget earlier; the budget request includes \$2.3 million for additional investigators to expand the Institutional Hearing Program.

Mr. SHAW. For fiscal year 1994.

Mr. CONDIT. Right, and \$2.2 million to provide support to INS attorneys on deportation cases. The money will be spent nationally. Could you be specific in what this money will actually mean to California?

Mr. SHAW. Dick, can you answer that? There is \$11 million in there, as I recall, for detention and deportation officers.

Mr. CONDIT. \$11 million, OK.

Mr. SHAW. \$11 million; those are the ones that bring the aliens into court and escort them out of court, take them to the airports.

Dick.

Mr. ROGERS. As the population in the State of California institutions increase, we plan to dedicate those resources to specific institutions, especially the new ones; and the State will be opening another institution that will handle our Institutional Hearing Program in Mount Signal within the end of this year and those resources will be dedicated to that program.

We envision, in 1994 and 1995, to have no criminal aliens released to the street in the State of California; they will be remanded and have an order of deportation before they are released and they will be removed foreign immediately upon their release.

Mr. SHAW. I cannot cite for you the staffing levels and how those resources, if passed by the Congress, would be apportioned but we are on record in the 510 report that states that, while we would continue to expand the Institutional Hearing Program as the most effective response to this major problem, we would concentrate our efforts on the five States delineated, that we would work in those five States first to resolve the problem there since it represents, from our estimate, 81 percent of the total population.

Mr. CONDIT. You also made a point that you, in this year, are going to add 10 immigration judges to increase the government's capacity to handle exclusion hearings?

Mr. SHAW. Exclusion hearings, yes.

Mr. CONDIT. How many of these judges will be assigned to California?

Mr. SHAW. I don't like to talk, chairman, off the top of my head. I do not have the plan in my hand for the distribution of those resources, investigative, detention officers, and judges. But it would be spread among the five States; and Mr. Rogers has made a pro-

posal very recently to set up a consolidated file location in his office, Laguna Niguel, western region, to coordinate and track, consolidate the criminal alien files for all criminal aliens identified in the State of California.

Mr. CONDIT. Then maybe you can just tell me, is California a priority?

Mr. SHAW. Yes.

Mr. CONDIT. OK. I have some additional questions that I would like to submit to you and, if you would be kind enough to respond to them in writing for the record so that we can put the information together to come up with what we think is a fair conclusion of these hearings. We are going to have a series of them. I would appreciate it very much.

[The information is contained in the appendix.]

Mr. CONDIT. Mr. Peterson.

Mr. PETERSON. I have been working with the full committee staff of Government Operations and looking into these information systems. I have not gotten to your level yet, but if you could make available to us or to me whatever you are doing in your information systems, what is on the table, what you are looking at, I would appreciate it.

We are trying to look at this in every agency.

Mr. ROGERS. If I could make a comment for California on that. We now share the State of California corrections information system, which is OBUS; we have terminals, we have a cooperative agreement with the State institutions, we also initiated and have a pilot program on what they call AFIS, which is the automated fingerprint information system that is handled through NIMBUS, which is a cooperative effort through the Western States. All nine States in the western portion of the country are a member and we share that automated data immediately through Sacramento.

So our information on criminal aliens is immediately available to any other local participating agency within those nine States. So we have a data base in both our agency and the States for the sharing of information.

Mr. PETERSON. I appreciate that. I am just looking at the bigger picture of the whole country. I am just kind of interested. The Department of Labor and HUD are making this available; I would just like to know where your folks are heading with this, if you have any plan to have a nationwide deal. We are trying to see if we can coordinate all of this different stuff that is going on, if you could make that available.

Mr. CONDIT. We thank you folks very much; you have been very patient and very cooperative and we appreciate it.

Mr. Shaw, we would invite you to join us for a few minutes, if you would like, and there may be some additional questions to you.

Mr. Sandoval, I would like to thank you for getting up so early and driving here to Merced for the hearing today. I appreciate it very much. I know the citizens of Merced appreciate your effort as does this subcommittee.

Mr. Sandoval is the secretary of Youth and Adult Correctional Agency; and we appreciate you being here so much. And you have the microphone.

STATEMENT OF JOE SANDOVAL, SECRETARY, YOUTH AND ADULT CORRECTIONAL AGENCY, ACCCOMPANIED BY TOM GOGGENHAUER, CALIFORNIA DEPARTMENT OF CORRECTIONS

Mr. SANDOVAL. Thank you, Mr. Chairman.

With me this morning is Tom Goggenhauer, who is an expert on this issue and is here representing the California Department of Corrections.

Like Mr. Shaw, I would like to paraphrase my written testimony but request that the testimony, in its entirety, be included in the record. I would also like to state that I am in total agreement with Mr. Shaw that the relationship between the INS and the California Department of Corrections is, in fact, an excellent relationship.

I welcome this chance to offer you some concrete recommendations for addressing the problems that are associated with this critical issue.

As you know, California is incurring a significant and increasing burden as a result of the Federal Government's failure to fulfill its responsibility under the Immigration Reform and Control Act which requires Federal reimbursement to the States for the costs incurred in incarcerating undocumented aliens.

While the prisons in Arizona, Florida, New York, and Texas house sizable numbers of undocumented criminal aliens, California is by far the most heavily impacted State in this country. Our prisons today house 5 times more undocumented felons than any other State.

On December 31, 1992, there were 109,000 inmates housed in our prisons and over 15,200 of those inmates were identified as having actual or potential INS holds. As was mentioned by Mr. Shaw, it is estimated that this number is going to exceed 16,000 in the next fiscal year.

The cost to California for this current year is in excess of \$318 million and we expect that the cost to the people of this State is going to jump to about \$350 million in the next fiscal year. And that is just the start of the cost to the taxpayers of California. Those costs refer only to housing costs and do not include costs which are associated with arrest, with prosecution, or with court proceedings, and we are also not including the tangible and intangible costs to victims of criminal alien activities.

The price tag jumps even higher when you take into account the fact that each prison in California costs an average of \$200 million to construct and that there are enough undocumented felons in our system today to fill four prisons to almost twice their design capacity, four prisons at twice the design capacity.

Eight percent of the wards in the California youth authority, and between 9 and 11 percent of California's county jail population, are also undocumented criminal aliens. So, when we total the costs of this population, in addition to those that I have cited for the State prison population, the cost then rises to over \$490 million.

Some of the recommendations that I would like to offer to this committee for consideration in helping this State and other States deal with this issue: The first recommendation is that Congress take immediate steps to reimburse California, as well as the other

affected States, for the costs of incarcerating undocumented alien felons.

The President's budget did not include the \$250 million that was requested to cover the last 9 months of our fiscal year and which was requested by the Wilson administration. So, as a result, we are having to turn to you, our congressional Representatives, to ensure, through congressional amendment of the President's budget, that moneys are included to fund this mandate.

The second recommendation is that Congress create a national "Blue Ribbon" commission whose mission would be to develop recommendations intended to streamline the process of incarcerating convicted criminal aliens in their country of origin.

Basically we have, today, treaties that have been in effect since 1983; those treaties simply do not work, there are too many restrictions that have been written into them. The treaties are ineffective and they just simply do not work. For example, both nations must agree to the transfer, the inmate must also voluntarily request it, there cannot be any appeals pending, the inmate cannot have lived in this country for more than 5 years, and so on and so forth.

But, to cut to the bottom line, since January 1988, through April of this year, the California Board of Prison Terms has received only 130 requests and 98 of those requests were determined not to meet the treaty criteria and 92 of the 98, by the way, were transfer requests to Mexico, which is the country of origin for about 85 percent of all undocumented criminal aliens in California. Of the 130 requests, 8 have been transferred. So the treaties, as they are written today, do not work.

I envision the primary task of this blue ribbon commission being to review the provisions of the Transfer Treaty Program in order to develop recommendations for easing restrictions that severely limit the effectiveness of the treaties.

I also believe that this blue ribbon commission could explore the feasibility of instituting a mandatory transfer program. Under such a program, the Federal Government might pay an annual subsidy to the receiving country and would have to develop a verification process to ensure that inmates serve the sentence that is imposed by the court.

The third recommendation is that the Congress mandate that Federal officials take custody of and prosecute criminal aliens who have violated their deportation orders.

If an undocumented alien has been formally deported from this country, just the mere fact that he/she reenters the country constitutes a Federal felony. I think the term that is in the books is 2 to 15 years; however, it is a law that is very seldom enforced and then only when the criminal alien is a serious or a repeat offender.

We believe that, since immigration policy is strictly a Federal responsibility, that reentry following deportation is a Federal offense and that Federal officials should be mandated to exercise their sole responsibility of investigation, prosecution, and imprisonment.

The fourth recommendation is that the Congress mandate that Federal officials exercise their jurisdiction by taking custody of criminal aliens who commit a crime which violates Federal law and State law.

Today, the Federal Government has the option of assuming responsibility in cases where there is concurrent jurisdiction but there is no case where Federal officials are compelled to either take custody of or to prosecute even when they have primary jurisdiction.

We believe that the Federal Government should not have a choice but that they should immediately take custody of the offender and that the reason that this would certainly benefit all of the States in this Union is that it would serve to reduce the State criminal court caseloads as well as State and local correctional populations.

The fifth recommendation is that the Congress mandate that INS transport all deportable criminal aliens back to their home area or their place of residence rather than to the border and that they notify foreign country officials when felons are being returned to their jurisdiction.

The policy that we have, for example with Mexico, is basically to take them to the border and let them walk across and what that simply results in is that these criminals who have just been released commit crimes, victimize Mexican citizens on the Mexican side of the border, quickly recross, reenter this country, victimize American citizens. They then come to the attention of law enforcement, are rearrested, and they are right back into our system.

The second part of the recommendation is to notify the foreign country officials when the felons are being returned to their jurisdiction. We believe that it would be extremely beneficial for any law enforcement official in any jurisdiction where the alien is being released to be notified so that they might be able to take proactive action. Such a notification would have a deterrent effect because it would allow those officials to perhaps surveil and make arrests in a timely manner on their side of the border.

In the fall of 1992, INS in cooperation with the Government of Mexico began deportation of 316 undocumented immigrants to Mexico City rather than simply depositing them at the Mexican border. It is a practice that we believe should be expanded to apply to all deportations as a means of reducing or delaying the return of these individuals.

Recommendation No. 6 is that Congress develop a Federal revenue source that will ensure sufficient funds to reimburse the States for the cost of incarcerating criminal aliens. One possibility is to charge a border crossing fee between the United States and its bordering nations.

A former INS Commissioner has testified that he believes that a fee of \$1 to \$2 could raise as much as \$500 million a year without adversely impacting tourism. It is not an unfamiliar concept; the United States now charges entry fees at airports and seaports for foreign nationals, as do many foreign nations.

It is also my understanding that the Department of Justice is using or hoping to use what they refer to as enforcement fines and attachable assets to fund various aspects of their operation. If that is the case, I would suggest that these funding sources might also be utilized to help reimburse the States for incarcerating criminal aliens.

My last recommendation is that the Congress authorize funds to increase the level of INS personnel devoted to the identification and deportation of incarcerated criminal aliens. Mr. Shaw described, the overwhelming responsibility and very limited resources available to them. We believe that, if the resources are provided to INS that the States would benefit.

The magnitude of the criminal alien problem in California, I know, is quite evident, certainly quite evident to all of the people in this room. And, although only one-third of 1 percent of the State's total population is housed in the prison system, about 14 percent of these inmates are criminal aliens who are subject to INS deportation. The disproportionate extent of this Federal burden now shouldered by California taxpayers is evidenced by the fact that, of the 13,117 criminal aliens deported throughout the United States in 1991, 9,500 were from California.

So the bottom line is that this State can no longer afford to shore up Federal deficiencies by siphoning off moneys that have been collected from our taxpayers to fund State programs. We believe that the President and the Congress must step forward and ensure that Federal officials assume their clearly mandated responsibility for arresting, prosecuting, incarcerating, and deporting undocumented criminal aliens.

Thank you very much.

[The prepared statement of Mr. Sandoval follows:]

DRAFT OUTLINE**DRAFT OUTLINE**

PRESIDENTION TO THE
INFORMATION REQUEST AND TRANSPORTATION
AND ARRIVAL COMMITTEE

COMMITTEE ON CONSTITUTIONAL OPERATIONS

JUNE 2, 1993

INTRODUCTION

Thank you for the opportunity to participate in this hearing. I appreciate this committee's interest and concern relative to the impact of undocumented aliens on California's prison system, and I welcome this chance to offer you some concrete recommendations for addressing the problems associated with this critical issue.

As you know, California is incurring a significant and increasing burden as a result of the Federal Government's failure to fulfill its responsibility under Title V of the 1986 Immigration Reform and Control Act, which requires Federal reimbursement to the states for the costs incurred in incarcerating undocumented felons.

While prisons in New York, Florida, Texas and Arizona house sizable numbers of undocumented criminal aliens, California is by far the most heavily impacted state: our prisons house five times more undocumented felons than any other state (Attachment A).

On December 31, 1992, there were over 109,000 inmates housed in California's prisons. Over 15,200 of these offenders, or roughly 14 percent, were identified as having actual or potential INS holds. It is estimated that this number will exceed 16,000 during fiscal year 1993-94.

According to the Department of Finance, these numbers translate into a cost of over \$318.3 million for the current fiscal year, and will climb to about \$350 million in FY 1993-94.

However, I would point out that these dollar amounts refer only to housing costs and do not include costs associated with arrest, prosecution and court proceedings. The price tag jumps even higher when you take into account the fact that each prison in California costs an average of \$200 million to construct and that there are enough undocumented felons in our system today to fill four prisons at almost twice their design capacity.

I would also point out that about eight percent (approximately 650) of the wards in the California Youth Authority (CYA), and between nine and 11 percent (an estimated 6,900) of California's county jail population, are undocumented criminal aliens. When the costs of these populations are added to those cited for prison housing, the cost of incarcerating this population rises to over \$490 million.

Against this backdrop, I would offer the following recommendations for this committee's consideration.

RECOMMENDATIONS

1. Congress must take immediate steps to reimburse California (as well as other affected states) for the costs of incarcerating undocumented alien felons.

Regrettably, the President's budget did not include the \$250 million the Wilson Administration requested to cover nine months of costs in the 1993-94 State fiscal year.

However, as Governor Wilson stated in his formal request to the President, "the nation's immigration and refugee policy is exclusively a Federal responsibility (which) carries with it the financial obligation to pay for services (that)...the states are mandated by the Federal Government to provide."

We must now turn to you, our Congressional representatives, to ensure through Congressional amendment of the President's budget, that monies are included to fund this mandate.

2. Congress should create a national "Blue Ribbon" Commission whose mission would be to develop recommendations intended to streamline the process of incarcerating convicted criminal aliens in their country of origin.

The United States has entered into treaties with a number of foreign countries, including Canada and Mexico, which allow for the transfer of offenders to their country of origin for completion of the sentence imposed by the court.

As written, the program has been ineffective because these treaties contain conditions that restrict the ability of both the Federal Government and the states to transfer criminal aliens in any significant numbers (Attachment B).

Not only must both nations agree to the transfer, the inmate must also voluntarily request it. Criminal aliens with relatively short sentences generally prefer to stay in the U.S. because of better prison conditions. Those with long sentences may want to go home, but there is concern on the part of California's paroling authorities that the punishment for certain offenses may not be comparable and that, as a result, the felon may not serve the full sentence if transferred.

Although California is one of 33 states authorized to take part in a voluntary transfer program under these treaties, the procedure has rarely been used. Between January 1988 and April 1993, for example, the Board of Prison Terms (BPT) received only 130 requests.

Ninety-eight of those requests were determined not to meet treaty criteria. Ninety-two of the 98 were transfer requests to Mexico, which is the country of origin for about 85 percent of all undocumented criminal aliens in California. Ultimately, only eight of the 130 offenders who submitted requests were transferred.

The primary task of the Blue Ribbon Commission would be to review the provisions of the Transfer Treaty Program in order to develop recommendations for easing restrictions that severely limit the effectiveness of these treaties.

The commission could also be directed to explore the feasibility of instituting a mandatory transfer program under which all deportable inmates except life prisoners would serve their sentence in their country of origin. Under such a program, the Federal Government would pay an annual subsidy to the receiving country and would have to develop a verification process to ensure that inmates serve the sentence imposed by the courts.

There are potential problems to this approach, including issues relating to comparable conditions/sentences and associated sovereignty concerns, but I believe the concept merits further examination.

3. Mandate that Federal Officials take custody of and prosecute criminal aliens who have violated their deportation orders.

If an undocumented criminal alien has been formally deported, mere re-entry into the U.S. is a felony that subjects the offender to imprisonment for 2 to 15 years; however, this law is seldom enforced, and then only when the criminal alien is a serious repeat offender who has re-entered illegally numerous times. Since immigration policy is strictly a Federal responsibility, re-entry following deportation is a Federal offense – and Federal Officials should be mandated to exercise their sole responsibility of investigation, prosecution, and imprisonment.

4. Mandate that Federal Officials exercise their jurisdiction by taking custody of criminal aliens who commit a crime which violates Federal law and/or both State and Federal law.

Although the Federal Government currently has the option of assuming responsibility in cases where concurrent jurisdiction exists, regardless of who has primary jurisdiction, Federal officials are not compelled to either take custody or to prosecute, even when they have primary jurisdiction.

When a criminal alien has committed an offense punishable under Federal and/or state and Federal law, as in the case of narcotics trafficking offenses and violent crimes (Attachment C), the Federal Government should have no choice but to take immediate custody of the offender. This would serve to reduce state criminal court caseloads as well as state and local correctional populations.

5. Mandate that INS:

- Transport all deportable criminal aliens back to their home areas (place of residence) rather than to the border; and
- Notify foreign country officials when felons are being returned to their jurisdiction.

Given California's proximity to Mexico, border deportation releases are extremely ineffective and negatively impact public safety on both sides of the border. Of the 2,700 inmates officially deported during 1990 after serving their sentence, approximately 600, or 22 percent, are known to have returned to the U.S. by virtue of their arrest or contact with the Department of Corrections' Parole and Community Services Division. The extent of reentry by other deportees cannot be assessed but is probably very high.

In the fall of 1992, the INS, in cooperation with the Government of Mexico, began deportation of 316 undocumented immigrants to Mexico City, rather than

depositing them at the Mexican border. This practice of interior repatriation should be expanded to apply to all deportations as a means of reducing or delaying the return of these individuals.

Alerting foreign officials to the presence of these individuals would enhance public safety by allowing for more proactive law enforcement efforts on both sides of the border.

6. Develop a Federal revenue source that will ensure sufficient funds to reimburse states for the cost of incarcerating criminal aliens.

One possibility is to charge a border crossing fee between the U.S. and its bordering nations.

Former INS Commissioner Alan C. Nelson believes a \$1 to \$2 fee could raise as much as \$500 million per year and that such a fee would not adversely impact tourism.

This is not an unfamiliar concept. The U.S. now charges entry fees at airports and seaports to foreign nationals, as do many foreign nations.

In a 1992 nationwide poll, 72 percent of those polled favored such a fee as a funding source for improving border security. I definitely view it as a revenue source to be specifically earmarked for the purpose of reimbursing states for the cost of incarcerating undocumented criminal aliens.

It is my understanding that the Department of Justice is using, or hoping to use, enforcement fines and/or attachable assets to fund various aspects of their operations. If so, I would suggest that these funding sources might also be utilized to help reimburse the states for incarcerating criminal aliens.

7. Authorize funds to increase the level of INS personnel devoted to the identification and deportation of incarcerated criminal aliens.

Although the INS is taking steps to facilitate the identification of incarcerated criminal aliens and to expedite the deportation hearing process, additional funding is needed to increase the number of INS personnel devoted to these activities. This higher level of personnel, in conjunction with the 20 new INS judges authorized under the 1990 Immigration Act, will reduce case backlog.

The inability of the INS to adequately identify and process deportable offenders results in significant reincarceration and parole supervision costs to the State.

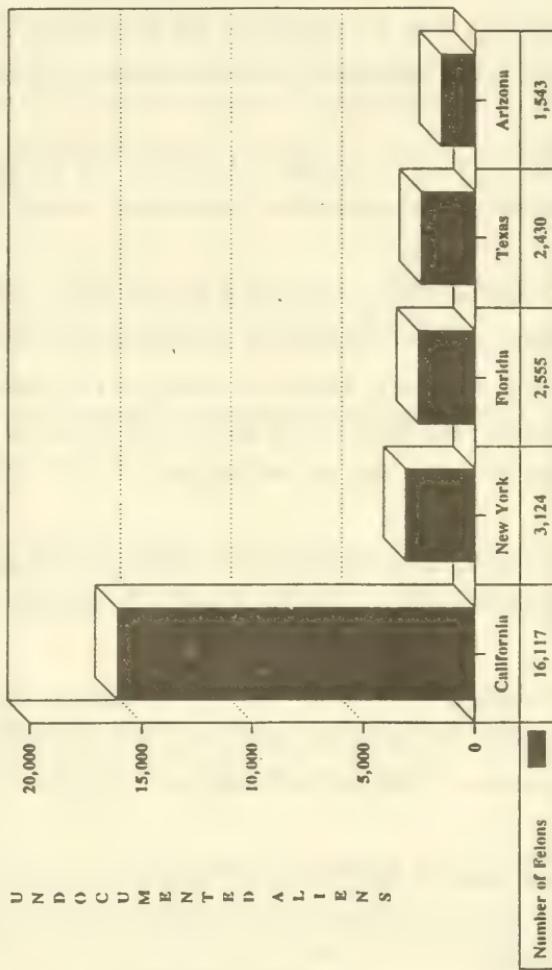
The inability of INS to carry out its responsibility is also reflected in the CYA where INS fails to respond, about 90 percent of the time, to that Department's notification that undocumented wards are being released.

In addition, in 1990, over 5,600 Department of Corrections' parolees were released to INS detainer, yet less than half (approximately 2,700) were formally deported.

ATTACHMENT A

**ESTIMATED UNDOCUMENTED CRIMINAL
ALIENS IN STATE PRISONS**

FISCAL YEAR 1993/94



Source information as of March 1993, Department of Finance.

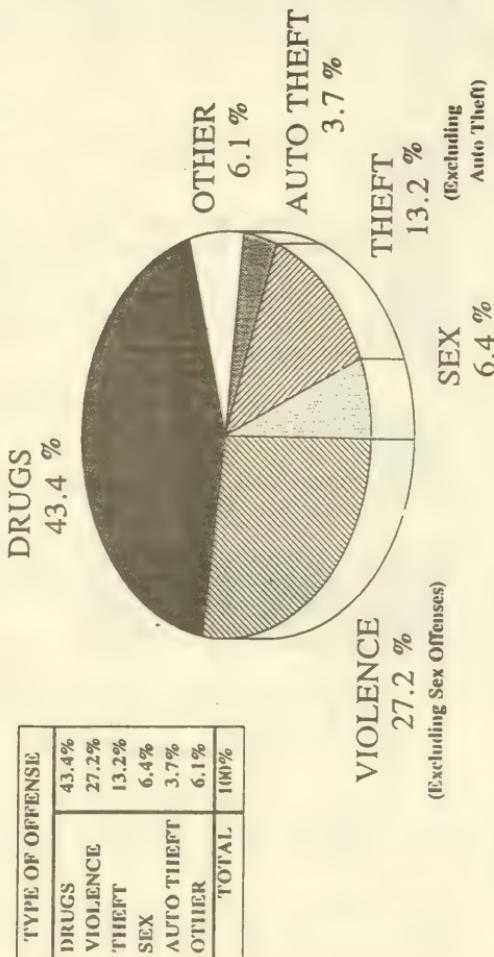
ATTACHMENT B

FOREIGN PRISONER TRANSFER PROGRAM

- I. Two treaties provide the provisions for transfer for most of the inmates in California prisons:
 - A. The Treaty Between the United States of America and the United Mexican States on the Execution of Penal Sentences requires:
 1. The offense for which the offender was convicted and sentenced must be one that is generally punishable as a crime in the receiving country.
 2. The inmate shall not have lived in the U.S. more than five years prior to the instant offense.
 3. The inmate shall not have been convicted of a political, military, or immigration offense.
 4. The prisoner must have at least six months of his sentence remaining to be served at the time of petition to transfer.
 5. The judgement must be final.
 6. The sentence being served by the offender must have a specified duration, or such a duration has subsequently been fixed by the appropriate administrative authorities.
 - B. The Council of Europe Convention on the Transfer of Sentenced Persons Between the United States of America and 28 Other Governments contains similar requirements.
 - C. Both treaties require the consent of the prisoner, the transferring country, the receiving country, and state authorities, if the offender was sentenced in a state court.

ATTACHMENT C

**PERCENTAGE OF INMATES WHO HAVE AN
INS HOLD BY TYPE OF OFFENSE**



February 28, 1993 Report by
Offender Information Services

Mr. CONDIT. Mr. Sandoval, thank you very much for your testimony. I have a couple of questions I would like to ask then I will allow Mr. Peterson to ask a few questions and we will get you out of here as quick as we can. I know you have other things.

It does not look like the Federal Government is going to reimburse you for the cost of incarcerating criminal aliens in the State prisons. You may face some significant cuts in the State budget. You are aware that I have a bill H.R. 140 that would require the Federal Government to pay for their mandates or not mandate.

Can you just, for the benefit of all of us, describe what the consequences may be with the State budget cuts, with no Federal funding for mandated programs. I am sure you are aware of, as most people are, what is going on in San Joaquin County right now where the district attorney there is not pursuing people who have committed crimes, misdemeanors.

Can you describe for us what the consequences may be for the State of California if we don't have more money to deal with this problem?

Mr. SANDOVAL. San Joaquin County, as you know, is simply 1 of 58 counties in this State. The great majority of those counties are encountering significant adverse impacts as a result of the county jail inmate population. Today, we have some 28 counties in the State of California that are under court-ordered population caps; those 28 counties represent some 75 percent of the total county jail population.

What a population cap means is that, once a county jail achieves a certain level of population, then they have to start putting the convicted inmates, whether they be misdemeanants or felons, right back out on the street. The major problem is in Los Angeles County where Sheriff Sherman Block, who has custody of 22,000 inmates, has had to close two or three of his facilities. San Diego County has been unable to open facilities which have been constructed simply because there is no money available in this State.

Mr. CONDIT. Can you give me an idea of how many potential deportables are not picked up by the INS after they have served their sentence and therefore are released on parole?

Mr. SANDOVAL. That number varies with the year. In 1990, they were more successful than in 1991. I do not have the figures for 1992.

Mr. CONDIT. Around 3,000.

Mr. SANDOVAL. It is about 3,000; isn't it?

Mr. GOGGENHAUER. Are you talking on an annual basis?

Mr. CONDIT. Yes.

Mr. GOGGENHAUER. 3,000, yes.

Mr. CONDIT. Does the INS always take custody of those who have committed the most serious crimes?

Mr. GOGGENHAUER. They make every effort to.

Mr. CONDIT. They make every effort to?

I hear that kind of answer all the time.

Mr. GOGGENHAUER. When we have an inmate who is going to be released and we have been notified that they cannot come and pick them up, we will ordinarily contact the local regional unit and they will ensure that those people are picked up and deported.

Mr. CONDIT. Of those requests for transfers that are submitted to the Department of Justice, how would you evaluate the Department's handling of those requests? Are they handled promptly or do you see long delays?

Mr. SANDOVAL. There is both. Well, actually they handle some promptly and properly; their resources certainly do not allow them to deal with the tremendous numbers that we have. We hold inmates that have INS holds placed on them for 48 hours following their official release from our State prisons; if INS does not pick them up, by law, we release them back into the streets of California.

Mr. CONDIT. You testified that the procedure for voluntary transfer of prisoners has rarely been used. Between January 1988 and April 1993, the Board of Prison Terms received only 130 requests.

Do you know the reason there have been so few requests? Is it a matter of people not knowing about the program or do prison officials not feel that it is worth the trouble to seek transfers?

Mr. SANDOVAL. Well, I think it is a combination of things. One, if inmates receive relatively short sentences, they would prefer to serve out their sentences in the State of California simply because the living conditions in our institutions are so much better than they would be anywhere else.

If they have been in this country a significant period of time and they have family ties in this country, there really is no interest in leaving the country.

Another problem is that, if their sentence is relatively short, they cannot meet one of the requirements of the treaty and that is that they must have, once all of their appeals are over, more than 6 months to serve.

Mr. CONDIT. Does this mean that there has to be a consensus between all of the parties, the individual, the institution, and the country?

Mr. SANDOVAL. It must be voluntary, the inmate has to request it, the United States and California must be willing to abide by the transfer, the receiving country has to agree. So it is a treaty that just does not work.

Mr. CONDIT. Well, I don't know this to be correct but our information tells us, in fact, that anyone of those parties can request the transfer. We will check and see if that is accurate.

Mr. SANDOVAL. It is not accurate.

Mr. CONDIT. It is not accurate.

Mr. SANDOVAL. It is not accurate.

Mr. CONDIT. OK. One of your proposals is to streamline the process of incarcerating convicted criminal aliens in their country of origins by requiring the mandatory transfer. At the request of the subcommittee, the Congressional Research Service prepared a memorandum regarding legal issues associated with such mandatory transfers. They reported that, when the United States negotiated a transfer treaty with Turkey, that the Turks wanted to provide for more mandatory transfers but were informed by the United States that the constitutional considerations makes automatic transfers impossible.

Do you have any comments on the constitutional problems? Has the State of California researched the issue and do you have specific recommendations on addressing this problem?

Mr. SANDOVAL. There would be a number of constraints. I have had some informal discussions with the Mexican Counsel General in Sacramento on this issue and one of the concerns that they have is incarcerating Mexican nationals, Mexican citizens on Mexican soil for crimes not committed in Mexico. That is a problem.

Another issue that may be raised by civil rights groups is that, if an individual is convicted of a crime in California, that individual is entitled to the same rights and processes as anyone else convicted in this State. And California, as you know, is, I think, the only State in the Union that has a prisoners' rights law. Additionally, court rulings allow, for example, access to law libraries and things like that.

So there are a lot of issues that I have looked at but the problem throughout the country, but moreso in this State, is overwhelming and bears looking into.

Mr. CONDIT. You are familiar with the INS Institutional Hearing Program; correct?

Mr. SANDOVAL. Yes.

Mr. CONDIT. Do you think the program needs to be expanded and, if it is expanded, will that solve your problem? Which facilities do you think would benefit from the program being expanded?

Mr. SANDOVAL. The expansion of the program obviously would benefit State incarceration problems because of the enhanced ability to identify undocumented alien criminals. We have two facilities in the State, Donovan State Prison in San Diego and Calipatria State Prison in Imperial County. We are considering increasing our bed space into a third facility which is being constructed in south Imperial County.

Mr. CONDIT. Thank you, Mr. Sandoval. I am going to ask Mr. Peterson to ask some questions if he would like.

Mr. PETERSON. Thank you, Mr. Chairman.

Title VIII of the United States Code provides that, if aliens have been deported and they reenter illegally, they can be subject to Federal imprisonment for 2 to 15 years if they commit a new aggravated felony.

Do you think that increasing these Federal penalties is going to help reduce your incarceration and parole costs?

Mr. SANDOVAL. I am not so sure. Increasing the penalties could be a deterrent, but I think the application of existing statutes would have an impact. First of all, two things would help the people of the States; one is that, if the cost of prosecuting and incarcerating was borne by the Federal Government, it would remove a major cost.

In California today it costs the people of this State \$20,000 a year to house and feed an inmate. On the juvenile side, it costs us somewhere in the vicinity of \$28,000 a year to house and feed a ward.

So, if the Federal Government were to take custody of undocumented alien criminals, obviously that would save big bucks to us.

Mr. PETERSON. Do they have room to put them some place? Do they have Federal prison space?

Mr. SANDOVAL. No, the Federal Government does not have the space and obviously that is the reason that they are not taking them. But of course our point is that it is a Federal responsibility and that the taxpayers of this State are having to shoulder that burden that does not belong to us.

Mr. PETERSON. The discussion that I had earlier—do you think the things are improving in the tracking between your agency and the Federal Government?

Mr. SANDOVAL. California and INS have an excellent working relationship and the tracking that occurs in this State is a good process. But the fact of the matter is that INS simply does not have the resources to be able to deal with the workload that we generate.

Mr. PETERSON. Do you have any ideas about how INS or the Federal Government could change the way they operate their system, to save money, rather than just saying that we have got to have more money, more people, more of the same? Is there some other way we could do this?

Mr. SANDOVAL. I am not that well versed in the detail of their operation so I would be hesitant at this stage.

Mr. PETERSON. You are sitting over there on the State side; you cannot, right offhand, see anything that is obvious that we ought to be doing differently?

Mr. SANDOVAL. What needs to be done is, and I think there was some prior discussion about increasing the automation of system processing, to increase the ability of INS to tie in with the States so that the wheel does not have to be reinvented each and every time but that once a document has been prepared and certain criteria has been established, that the information is available throughout the criminal justice system. That would be a tremendous benefit not only to this State but to everybody else in this country.

Mr. CONDIT. May I interject something, Mr. Peterson.

I think Mr. Sandoval and I agree on this and I want this to be one of the solutions. If it is not, correct me.

From your point of view, whatever the Federal policy is, we have to deal with; but whatever it is, they should reimburse us for it. That is really the solution; is that not correct?

Mr. SANDOVAL. And that was my No. 1 recommendation.

Mr. CONDIT. All right.

Mr. Peterson, are you done?

Mr. Shaw, would you like to ask a question or make any comments; you are welcome to do so if you like.

Mr. SHAW. No, except to say that the problem existed probably before the Federal Government discovered it.

Criminal aliens have always been in the State systems and, with the Immigration Act of 1990, we have systematically now begun to establish vehicles through existing State repositories, a centralized point in every State for the referral of convicted foreign-born nationals who may or may not be criminal aliens.

So that section 507 of the act begins now to give INS the ability to interface in a very complex system of criminal justice with 50 different State systems of corrections. And California is to be complimented because it has a relatively sophisticated centralized sys-

tem and we have been able to interface with it very well by piggybacking on the existing communication or automated system.

But you have to understand the complexity of a vast population of criminals, people who have violated State laws according to State criminal codes, many of whom are criminal aliens unknown to INS. And what we are trying to do now is interface or interrelate to 50 different State systems of criminal justice so that we can get into those penitentiary systems and backtrack through the sentencing court to obtain the records of conviction.

No one is going to wave a wand and solve this problem readily. If the power shifts exclusively to the Federal Government, then my budget would have to be quadrupled. If we can work cooperatively with the States and each shoulder a portion of the burden, then we will begin to make rational arguments based on known statistical facts, based on known records of accomplishment for what we need in the way of resources.

This is not rushing to a resource pool, to the trough, to say I need more people. We have the systems and they are tested on what has now worked since 1990 with the Immigration Act of 1990. We have defined the magnitude of the problem and we have begun to interrelate to the States using their existing systems of telecommunication and, where possible, or where resources are available, introducing new systems.

And I can explain that and document a great deal of that. What I am not able to tell you today is the timetable for INS is going to be able to absorb or get to that 57,000 estimated population that is spread through the penal systems.

I think we are on the right track and I don't think it is a question of just holding our hand out asking for resources. But to interrelate to so many different systems and to begin to track down the paper documentation that will allow us to take these cases before immigration judges is a complex problem of considerable magnitude.

Mr. CONDIT. Thank you, Mr. Shaw. I know Mr. Peterson and probably everyone here understands the complexities of INS and what it is faced with. Our States and communities certainly need to work together to make sure that we meet the needs of the community and make our streets safe.

The only additional comment I would make to that is that we all need to work together and you have a lot of State policies, but there are basically a half a dozen States who bear the burden of the cost of this problem and not all States in the Union sympathize with them and so INS as a division of the Justice Department sometimes is a bit overlooked.

But the burden is based on us in California, Florida, Texas, New York, and some other places so it makes it a very difficult task for us to convince everyone else throughout the country that it is a major problem and they ought to bear some of the costs for it.

Mr. Sandoval, I appreciate you being here today; you have done a great job and we will be in contact with you. We have some additional questions we would like to put into the record so we appreciate your participation very much.

Mr. SANDOVAL. Thank you, sir.

I would like to close by pointing out attachment A in my written presentation which highlights what you have just said. Although there are five States that have a significant problem in having to shoulder the costs of undocumented alien criminals, there is no comparison between any other State and the State of California. We house 5 times more inmates than any other State in this Union.

With that, I will close. Thank you very much.

Mr. CONDIT. Thank you, Mr. Sandoval. That will be included in the record, as well as your written testimony.

Panel III, Jack Meola, who is the executive vice president of the California Correctional Peace Officers Association and Mr. Jeff Thompson, the legislative advocate for the California Correctional Peace Officers Association.

These gentlemen came to see me several months ago and Mr. Thompson articulated their concern and their definition of this problem and, after that visit, we began to focus on this a little more. And we really are happy that you are here today.

So you have the microphone.

**STATEMENT OF JACK MEOLA, EXECUTIVE VICE PRESIDENT,
CALIFORNIA CORRECTIONAL PEACE OFFICERS ASSOCIA-
TION, ACCOMPANIED BY JEFF THOMPSON, CHIEF LEGISLA-
TIVE ADVOCATE**

Mr. MEOLA. Mr. Chairman, Congressman Peterson, and guests. I would like to thank you for this time.

On an introduction, I am Jack Meola; I am the executive vice president of our organization. I am also a correctional officer working in the prison systems.

We represent about 23,000 peace officers working in the prison system, in the youth authority, in adult corrections, and in paroles throughout the State. I am going to reflect on my report today as others before me have done and respectively summarize some of the areas of concern.

Mr. CONDIT. Your full written testimony will be in the transcript.

Mr. MEOLA. Thank you, Mr. Chairman.

What I would like to reiterate is the violent offenders that we deal with on a day-to-day basis, our percentage of about 12 percent are undocumented immigrants. We are dealing with first-degree murder, second-degree murder, rape, robbery, assault, child molestation, things of that effect. And, as Mr. Shaw said this morning, we are looking at about 18,000 inmates from different parts of the world which we incarcerate at this time.

And to reiterate on that, over 500,000 convicted felonies are committed in this State every year. We only incarcerate in the State prison system about 20 percent of that; so we are picking up about a fifth or approximately 106,000 inmates. And, in the youth authority, we are only looking at about 4 percent actual are felonies in this State placed into youth corrections.

In essence, our juveniles have a higher rate of violence than our adult corrections, which is about an 11.4 percent murder rate in the youth offenders. So what I am saying is, we are dealing with a population that we have to take care of our system that is not there on a voluntary basis. We are in a pretty serious position.

We have given some solutions to the problems of what we are dealing with at this point in time and deportation is one of those that seems to be the easiest solution. What one has to look at at this point in time is whether or not deportation is actually going to work. The largest part of the population that we are looking at are coming back into the States and committing crime over and over again. Unless, we have some type of commitment from those other countries guaranteeing they would take into consideration that these people had committed a felony in this State. A deportation program, whereby once they have been given their due process, they would be serving their term out in the country that they would be deported to. There would have to be some solid commitment on the part of the other country. So we are looking at some serious cooperation between our Federal Government and leadership of other countries.

The other thing on Federal incarceration, since we are looking at this being a Federal problem which, in turn, became a State problem monetarily. Fiscally, it has put an unbearable burden on the part of our State's systems. The other solution that we have given is a Federal incarceration of these individuals after they have been given their due process in the court system, whether it be here, whether it be in New York, whether it be in Illinois, Florida, or Texas, five of the largest States in the Nation that have this problem.

Whether or not that would fall into any conflict of title VIII, whether it would fall in any conflict with Federal and State mandated laws, mandated laws in other places, I am unsure of what type of Federal legislation would need to be required to allow that to happen. But here is where the burden right now is being put on the taxpayers of the State of California.

Now, if we could show some type of an incarceration rate at less of a cost at the Federal level, which it is at this point in time, we are actually dealing with the situation at less of a cost. We are going to have to incarcerate these people one way or another unless we are going to utilize the deportation process.

Base closures right now is an issue in the United States of America where different Members of Congress throughout the Nation are saying don't close the base in my area because all these jobs will disappear. Well, with a 6-week academy, 4 to 6 to 8 weeks depending on where in the United States you are going to do this, some of these bases, if they met Federal security criteria, you would be able to turn some of that civilian work force into a Federal correctional work force. With just a short period of time dealing with the education through a program you can reenter them into positions where they can help out county, State, city, and Federal law enforcement. That is another option that is also available within the Federal system.

The last thing I'd like to base my testimony on is what is included in 1986 IRCA law, which is the final solution and the solution that should be the most immediate, is the reimbursement for the cost of what we are doing here in California. I think we are doing a really good job, not only in State but city and county. There has been no major riots in the State; there has not been any major

incidents which became an embarrassment to the State of California in any capacity.

But what we have been dealing with, and what directly affects us is when the State of California does not have the money to pay for their prison budget. It usually comes out of staffing cuts, redirections, vacancies, so on and so forth within the work force. And somehow or another, we have got to still make things work without this money. In fact, this year's 1993-94 budget specifically includes a deletion of \$277 million from our budget based on the reimbursement by the Federal Government under IRCA at this point in time.

Now, if we don't receive that IRCA money, we have got to take it out of hide somehow and I don't see how that is going to happen with our population increasing about 400 inmates per month, about 4,800 per year.

With me today is our legislative advocate and our chief lobbyist, Mr. Thompson, and also my favorite Pat Riley look-alike, to further explain what is happening.

If you have any questions at this time, Mr. Chairman or any members of the panel, I will address them at this time or give it over to Mr. Thompson.

Mr. CONDIT. Why don't we do that if Mr. Thompson has a statement and then we will ask questions to both of you, if you don't mind.

Thank you very much.

Mr. THOMPSON. Good morning, Chairman Condit and members of the committee, and ladies and gentlemen of the audience; I am Jeff Thompson of the CCPOA.

As Jack introduced the group, we are the officers that handle the line in the prison system. We appreciate the interest of the subcommittee and you, Mr. Chairman, for following up with the interest and the hearing on the topic.

To give some perspective as to why our association is interested in the subject is it has literally been 3 years of real drought, not necessarily due to water but lack of dollars at the State level. California's economy is hurting badly and as a result of that, the State budget has been trying to absorb anywhere from 15 to 20 percent cuts within its operations just to make ends meet. We do not have the luxury of a deficit to roll over from year to year, although that is being explored by California this time.

But, among the bargaining chips, if you will, at the State level, is the corrections budget. Being an independent union, we have tried to come up with some cost-saving ideas that would demonstrate our fiscal responsibility to try to be part of the solution and not part of the problem.

One of the subjects that we touched on several years ago was the idea of the deportation of the undocumented criminal and we were surprised that, as we started to dig into the subject matter, to find the vast scale of criminal aliens in our prison system.

I would like to recommend to the committee a report entitled, "The Criminal Alien." We have made some copies available to your staff and to members of the California delegation in Congress. It was put together in March of this year; it has been referred to as the bible on this topic. It is an extensive and excellent research

piece into facts, figures, policies, and actions and players in the whole area of this question.

And the question is, as Mr. Meola was pointing out: What do we do with the hard criminal alien offender in our current prison system? These are not people here on an INS hold, these are people who have gone through the court system already several times, who are now with us for fairly habitual and, in many cases, violent criminal offenses against citizens of the United States including, I might add, members of their own communities who may or may not be citizens.

The numbers that Mr. Sandoval cited in our California prison system is about a \$385 million problem associated with the incarceration. And to tell you what that means to the line officers, we are currently the 46th leanest staff prison system in the United States. There are only four other systems that have fewer staff per inmate as in California. And presently with that ratio, as lean as we run, we are 2,300 officers short.

The \$385 million that are being expended to house the undocumented criminal in our system represents roughly 6,600 officers; that is thousands of officers more than what we need but I think that should give you some magnitude of the problem.

And, for us, the short staffing and the moneys expended toward incarcerating noncitizens who are committing crimes could much be better spent in areas to at least bring our staffing levels up to par but also in other areas for other legitimate social and necessary mental health education type programs that should be available for our regular citizens including, I might add, the legal immigrants that do go through the proper process to become a U.S. citizen.

As Mr. Meola pointed out, there are about three options. There is Federal reimbursement to the States of incarceration, is one option; there is the Federal Government taking off the hands of the States incarceration of the undocumented criminal; and then there is the option of deportation of the criminal to the country of origin, and we would like to advocate that as our first recommendation based on the basic premise that the U.S. taxpayer should not be victimized twice, once as a victim of the crimes committed by the undocumented criminal and second to pay for the room, board, education, medical, and recreational expenses at \$22,000 per year per undocumented criminal in our prison system. So we are getting beat up and robbed at the same time.

We would advocate a presentence deportation with incarceration at the other end of the line. I think it is realistic to also advocate that there be a subsidization to that host country. I think, in real terms, there has to be some incentive for a host country to take back a criminal and I think some of the prisoner rights groups, who have advocated that deportation should not occur unless there are similar conditions at the other end of the line, have a point. We believe that at least there should be the security at the other end of the line to ensure that that criminal is not loose, certainly victimizing citizens of the United States, but even citizens of that host country. That subsidization seems to be a fair thing to advocate and to negotiate with the host country and, as a condition of the receipt of that subsidy, should come some verification that that prisoner is, in fact, doing the sentence or time there.

The other thing we would advocate along that same line is a process of funding; and obviously that is the bottom line whether it is California's needs or the Federal Government's needs. But we would advocate that the concept of a border entrance fee be used, as has been proposed here earlier, so that there would be a new source of funds for the Federal Government to use for the subsidization of the incarceration of an undocumented criminal in a host country.

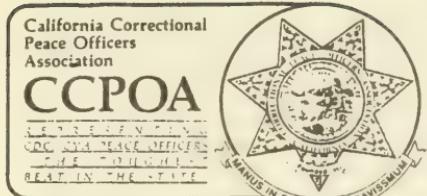
We believe that this is three very sound options to be looking at. We think that the one we are advocating is fair to the U.S. taxpayer. We think that, with the idea of subsidization with verification, you also have some fairness with the host country and fairness to those citizens of both nations involved with that transfer to ensure safety for their citizens whether they be in the United States, Canada, Mexico, other Central American countries, or other countries on the Pacific Rim.

So with that, Mr. Chairman, we would like to indicate our continued willingness to work with you, members of your staff, the committee's interest, and generally Congress as a whole, to solve this problem. We have been trying to contact some of our other brethren in other States, with New York and Florida and so on, to generate some more interest of the perspective of the citizen and the worker, especially in the prison environment where things like short staffing can mean the difference between life and death in some cases.

On that note, we have several hundred assaults per year on our staff, our short staffing. It certainly does not make it any easier for us to do that job and the kind of savings that we are looking at here could be plowed right back into making a safer system work for all of us in public safety in general.

If you have any questions, I will try to field them.

[The prepared statement of Mr. Thompson follows:]



Legislative Department

June 1, 1993

The Honorable Gary Condit
 Chair, House Subcommittee on Information, Justice,
 Transportation and Agriculture
 B-349-C Rayburn House Office Building
 Washington, DC 205150518

Re: Testimony Regarding Undocumented Criminals, Hearing, June 2, 1993

Dear Congressman Condit:

The California Correctional Peace Officers Association (CCPOA) is pleased to present a written entry into the record of your Subcommittee concerned with the incarceration of thousands of undocumented criminals in our state prison system.

By way of introduction, the CCPOA represents 23,000 peace officers that staff both the adult prison system, the Department of Corrections (CDC) and the juvenile system, California Youth Authority (CYA). On the adult side of the ledger, we house the bottom one-fifth of the convicted felons from our state's criminal courts. According to the Attorney General's latest report, 21.1% of the convicted felons come to state prison. Approximately four-fifths receive probation, probation with jail or some other form of community service, restitution, etc. The incarceration rate in California is 329 per 100,000 population. The national average is 326 per 100,000. Also, in sentences handed down and time served, California ranks below the U.S. average. Thus, our state is arguably more lenient toward its criminal offender than in other states.

Likewise, the California Youth Authority incarcerates only the bottom 4% of the juvenile offender population. As such, its concentration of violent offender is even greater than that in the adult system. Again, this is to indicate to you the type of offender we receive in our population. Because the CYA is a "indeterminate sentence" we cannot provide you any comparative statistics with regard to the sentence handed by the courts for juvenile felons. However, we can tell you that approximately 80% of the felons sent to CYA are offenders convicted of a previous felony.

It is against this backdrop that we begin to engage with you on the subject of the incarceration of undocumented criminals. None of the undocumented criminals in our system are there due to a "hold" for deportation by the Immigration Naturalization Service (INS). These people are habitual criminals that stay in our country at taxpayer expense, after having victimized American citizens. According to an extensive and exhaustive study called "The Criminal Alien" and issued March, 1993, research consultant Robert Holmes cites statistics that indicate our state prison system is literally swamped with undocumented criminals, which in our minds have no ethical or moral basis to be housed in a U.S. prison either at the state or county level. In our state prisons, approximately 21,170 inmates list foreign birth places among prison population of 109,000 (since the report was issued, our prison population now stands at approximately 113,000). The Department of Corrections believe that roughly 16,000 of these criminal offenders are deportable aliens. Using an incarceration cost per inmate per year of \$22,000, the price tag to the California taxpayer is \$350 million per year.

By comparison, the California Youth Authority estimates that approximately 800 of its wards are undocumented criminals. At the average cost of approximately 30,000 per year for each of its felons, the CYA price tag stands at approximately \$24 million.

Several counties have documented their costs associated with undocumented criminals being sent to prison. These counties include San Diego, Orange and Los Angeles Counties, and by examining their experience, we can arrive at an average cost to local government in the processing of criminal complaints against an average criminal. Multiplying this factor with the estimated numbers of undocumented criminals, we arrive at an appropriate figure. The local costs involved with the apprehension, investigation, prosecution, public defense, judiciary and probation costs, approximately \$112 million is additionally expended annually by local government in sending new undocumented criminals to prison.

In summary, with costs to counties, state prison, CYA and parole costs (estimated at about \$7 to \$8 million per year), we find California facing a \$500 million problem annually.

The CCPOA in representing its membership over the last several budget years, has advocated that as one long term solution for the spiralling prison cost, that we should consider formalizing the treaty between the United States and other nations to permit the deportation of criminal aliens.

The costs born by the state beg the question, "What can be done about it?" It does not seem fair that a non-citizen of the United States can prey upon law abiding citizens and after being duly convicted under the law, be permitted to stay in this country at taxpayer expense in conditions that are vastly superior to that which would be experienced in their country of origin. It is our belief that the \$500 million spent annually on these criminals would be best applied to improve our current criminal justice system to the enhancement of public safety and for other worthy programs for needy citizenry.

It is our position that the conditions that a criminal might face in their home nation's prison or jail system should be no concern to the American citizen, or for that matter our representatives in Congress, and is entirely appropriate.

Having said this however, we are concerned that the criminal, if deported, may easily return to this country to continue their evil ways unless securely housed in a facility over our borders. Given that our borders resemble a sieve, there is the obvious need to provide some certainty of secure housing of the criminal, and we would contend that that incarceration should occur for the same length of sentence as required by the California courts for the crime committed against our citizens. Obviously, mere deportation (with the return to the U.S. an inevitable occurrence), makes illegal alien status the practical equivalent of a "get out of jail free" card and becomes a license to commit crime. It is estimated that over 12,500 (3/4) of our undocumented criminals in custody emanate from the country of Mexico. Interestingly enough, over about 4,000 of these have no INS hold on them pending completion of their sentence. But, current facilities do not exist in Mexico to house the 8,000 plus criminal aliens that are presently deportable. This would only permit the border to be a new jumping off point for a new crime. Obviously, infrastructure is required over the border to permit the secure deportation of a criminal alien.

The second option to a state would be the Federal Government, given its responsibility to maintain our borders on the issue of immigration, to be responsible for the secure incarceration of the criminal alien for the remainder of their sentence. Some infrastructure and time to build is required to permit these first two options. In this regard, we would see the availability of a closed military base a potential option, as long as modifications are made to the physical plant to permit safe and secure operations to peace officers, staff and the inmates.

Also, if a treaty were put together with a foreign government the question of some subsidization of that operation would be legitimate request to be entertained. Obviously, without a cooperative agreement being struck, the United States cannot unilaterally impose requirements on another nation's jail or prison operation other than what it voluntarily permits. This has been the problem thus far, since the country of origin has been unwilling to receive the deportee, and the prisoner been unwilling to be deported. The Federal Government under President Carter in 1976, established the Transfer Treaty Program, which includes the United States and approximately 40 other nations and governments. However, several conditions must be met in order to complete a transfer of an undocumented criminal to his nation of origin: 1) Both nations must agree to the transfer, 2) The inmate must agree, and 3) Recipient nations must have comparable crime and punishment provisions. In this state, from the period between January 1983 and April 1991, a total of 18 undocumented criminals have been transferred, 7 to Canada and 11 to Mexico. At best, the Treaty Transfer Program is a program in name only. Thus, the United States is left holding the bag again. Therefore, we believe that incarceration of the undocumented criminal can occur with some subsidization as a condition of reality, and nonetheless provides substantial savings to the state, the Federal Government and ultimately the taxpayer.

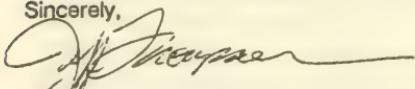
A third option would be the fulfilling of Congressional intent by the 1986 Immigration Reform and Control Act (IRCA) to fully reimburse the states for the cost of incarceration of the undocumented criminal. CCPOA has been actively lobbying the Clinton Administration and Capitol Hill for just such a reimbursement. Governor Wilson this year has asked the Federal Government for \$250 million to be provided to California for reimbursement. This falls short of the estimated \$350 million cost, but it is reduced based on the disparate timing of the state and federal budgets.

Put quite simply, if the Federal Government doesn't want to pay for them, then the Federal Government should be willing to take them or arrange a treaty with another country to have them housed securely off American soil.

We believe that this testimony gets to the heart of the matter, namely the cost to the taxpayer, and the inequitable, obvious burden our citizens bear to "care" for a criminal from a foreign country who victimizes our citizens. This is the basis for examining the various options to accomplish our goal. Either the Federal Government reimburse the states for cost, takes the undocumented criminal into its own hands or helps to effect a treaty that substantially reduces that numbers of undocumented criminals held in state prisons and county jails across the United States.

The CCPOA looks forward to continuing its work in this subject matter with interested parties. We are especially grateful for the interest of your office and that of the Committee members holding these hearings. We hope that our input can provide some further impetus for progress on this issue. We look forward to providing further work and assistance to you in your efforts. Thank you.

Sincerely,



Jeff Thompson
Chief Legislative Advocate
California Correctional Peace Officers Association

JT/zm

cc: Executive Council
State Board of Directors
Governor Wilson
Others

Mr. CONDIT. Sure. Thank you gentlemen for being here today. I know the document that you held up a few minutes ago, we have copies of it, and I know that it contains some valuable information.

But maybe, for the benefit of the audience and for us, you could share with us what you have estimated the cost to the taxpayers for illegal criminal aliens; can you give us some idea of what that cost is?

Mr. THOMPSON. Presently, the cost for housing a prisoner in the Department of Corrections is about \$22,000 per year; and it ranges. But approximately 16,000 are defined deportable criminal aliens; that could be higher or lower. But the estimates that Mr. Holmes came up with, and that includes several million dollars for parole operations, is about a \$385 million price tag.

Mr. CONDIT. Broken down individually, did you say 16,000; is that right?

Mr. THOMPSON. Approximately 16,000. There is an additional 800 or so, as Mr. Sandoval noted, in the youth authority; there are several thousand that are on parole; and then, if you tack in the local government estimates that are included in that report, another \$112-\$115 million could be attributed to local government costs associated with detection, prosecution, and detention of illegal aliens. So the total price tag is about \$500 million, around that.

Mr. CONDIT. Either one of you can respond to the questions. Why can't we deport illegal criminal aliens right now?

Mr. THOMPSON. Well, as indicated, it is a volunteer process. The host country has to be willing to receive the criminal; certainly this country is willing to deport them; but also the prisoner himself has to also agree to the transfer. Since 1983 to 1990 there has only been 18 transfers that we are aware of, and that is reflected in that report, that have been accomplished.

Mr. CONDIT. What, if any, help have you received from the Federal Government to deal with this problem up to this point?

Mr. MEOLA. As far as the deportation or the whole entire summary?

Mr. CONDIT. Well, the deportation; but also the whole problem, if you want to respond to that as well.

Mr. THOMPSON. Well, our concern has to do with trying to nip the cost problem in the bud and that is to send the criminal back to wherever they came from at the beginning so that there is no burden on the U.S. taxpayer. To the extent that IRCA provides Federal reimbursement, it still begs the question, there is still U.S. tax dollars being spent to hold this person.

Mr. CONDIT. If I may, IRCA has been mentioned and it was passed, I believe, in 1986.

Mr. THOMPSON. Right.

Mr. CONDIT. Has there ever been any IRCA money come back to the State of California?

Mr. THOMPSON. No, sir.

Mr. CONDIT. Go ahead, Mr. Thompson.

Mr. THOMPSON. We would love to see some Federal reimbursement but, as we noted, it is still a burden on the U.S. taxpayer and we don't believe that that is appropriate.

We have people who have not only violated our borders but have also victimized our society and it does not seem fair that the tax-

payer should also bear the burden of holding this person in conditions that we have noted are much superior to what they might have in any other nation on earth. It just seems a cruel irony that we are saddled, not only with just the victimization costs, if you will, but also the financial costs as well.

We would think that part of that solution, and it is an international solution, can be accomplished. There is the question of constitutionality and I know that that has been asked and raised here earlier. But, if that is the insurmountable legal barrier to deportation prior to a sentence being served, even with the program we have outlined for subsidization and verification, then really it begs the question back to just how do you maintain a secure border?

That obviously is a Border Patrol type of question. There has been legislation by some New York Congressmen, Shumer and Alfonse D'Amato, from New York, that was attempted last year, H.R. 4440 and S. 2340. Those did not make it but they provided new resources to INS. We don't know why Congress did not pass those bills but that would solve that border question. Because, if we cannot deport them, then we need to be able to be sure that the persons who do come across our borders to take advantage of life in America basically follow the rules and are not undesirables who just want to be here to victimize our society.

Mr. CONDIT. Let me summarize this proposal you have on deportation and see if I have got this right and then you can respond to it.

Once the person has been convicted of a crime, they are then deported to whatever country, they serve their sentence; how do we ensure, and I heard you talk about an incentive a while ago, but how do we ensure that they serve the crime? I mean, if they committed a brutal crime here, it would be an injustice for us to put them through the court system at great cost, send them to some foreign country, and then they go, gee, it is too expensive to keep them incarcerated so we will let them go.

How do we keep them? I mean, that they pay their debt to society; how do you do that?

Mr. THOMPSON. We would suggest the following: And that is that the treaty would be worked out with any nation that would be so inclined to receive this person back, and we would submit to you that the current negotiations with NAFTA, North American Free Trade Agreement, should include these kinds of discussions because, to the extent we want to encourage free trade and business within cultures, we should also be mindful of the reality that there are persons that are criminals, that will victimize citizens of all nations.

So while we have this free flow going, I think we should also deal with these difficult problems by suggesting and offering to a host country that we are mindful that perhaps your infrastructure does not permit secure housing for these persons, we as a country who is more developed is willing to take these people who have committed crimes and been duly convicted under our laws, that are your citizens, and help you incarcerate them. And, as a condition of that incarceration being accomplished in another nation, that there be a subsidy toward that country from the United States and we

would suggest that the border crossing fees would be a new source of funds that would be entirely appropriate for that. There would be no new burden on the U.S. taxpayer, or any other taxpayer for that matter, and that that source of money be made available to provide the infrastructure in operations to house these people and that, as a condition of receipt of that subsidy, that verification be permitted from officials, say from California for example, who obviously have the photographs and the fingerprints of the convicted criminal, to literally go to that country and verify that they are being kept secure in a facility in that nation.

Mr. CONDIT. Why is it you think that we are not able to get transfer treaties or use transfer treaties with our neighbors?

Mr. THOMPSON. Congressman, I am not sure of the history of negotiations, for example in the IRCA or this one that was cited in 1990. President Carter, I understand, had the original transfer treaty put together under his administration; it has been on the books but, as we noted, there has only been 18 transfers accomplished in about 8 years.

Whatever is there is not sufficient incentive to deal with the problem at the scope that it exists, or the scale that it exists. And we think, when you get right down to it, money talks and the other stuff walks, if you know what I am referring to. You have got to be able to give a country who right now has no incentive to take back a criminal citizen to do that and we think that it is realistic, and we have got to deal with reality, to say that we understand that you do need additional assistance financially to handle this person or these people.

And we need to be able to say we will put up this kind of dough to provide that.

Mr. CONDIT. Which brings up another point and then I will let you guys go.

It takes us, I guess, the average cost of incarcerated prisoner is \$16,000 to \$20,000 a year?

Mr. MEOLA. \$22,000 in the adult corrections and \$28,000 in the youth corrections because youth correction is much more program oriented. So \$22,000 and \$28,000.

Mr. CONDIT. So do we have an average cost of what it cost in other countries?

Mr. THOMPSON. Obviously, that is a fair question. We cannot answer that.

Mr. CONDIT. But we assume that it is much less they spend per prisoner?

Mr. THOMPSON. Yes, we do.

Mr. CONDIT. So, if we subsidize the cost of that, you are suggesting that we save money?

Mr. THOMPSON. Without a doubt.

Mr. CONDIT. What amount of money?

Mr. THOMPSON. It would depend on the country you were exporting to. Obviously a developed country, England, Canada, what have you, the cost would be higher. But, according to the statistics, the vast majority of the convicted criminals in our State system are from Central America and obviously the costs are less.

Mr. CONDIT. All right. The followup to that is, there would be those who would say that wouldn't be appropriate because of the

conditions of the jails. You know, we have a certain standard of housing prisoners here.

So help me with how I deal with that complaint that the human rights of prisoners would be violated because you are transferring a prisoner from one standard of living to another standard of living. So tell me how I deal with that.

Mr. THOMPSON. I think our response would be that it is not the concern of the American citizen who has been victimized by a person to make sure that that criminal is given all the comforts and opportunities that our Nation provides. It is clearly the responsibility, we think, for the perpetrator of a crime to live with what they have done.

There is a saying in the prison system, if you can't do the time, don't do the crime. And it is real clear to us that, and this is common sense and logic, if someone is going to come over here, not to seek a better life but to victimize people of a nation, then their rights must be subject to and forfeit to the rights of the country that they are victimizing. And we would submit to you that their rights are not as much a priority at that point.

And you can argue fair play or Constitution or what have you, I think if you get right down and ask the common citizen, do criminals have rights equal to a law-abiding citizen, they will tell you no.

Mr. CONDIT. OK, I clearly understand your answer, Mr. Thompson.

Your second choice would be, after deportation, I think I heard this, is for us to find these military bases that we are closing and utilize those for specific use for illegal alien criminals?

Mr. THOMPSON. That is correct.

Mr. MEOLA. Yes, we have two prisons in the State of California right now under the jurisdiction of California Department of Corrections that were prior military bases.

Mr. CONDIT. And the Federal Government would then run these facilities and therefore be responsible for the cost; that would be one way?

Mr. MEOLA. The cost burden and the incarceration that goes along with it.

Mr. CONDIT. Well, so you gentlemen know, I put a bill in that would require the Federal Government to look at the base closings and do just that sort of thing. I think it is one of the ways that we are going to get them to take responsibility for the costs.

But anyway we will be talking to you about that a little bit later.

Mr. THOMPSON. We will support that; that is a good idea.

Mr. CONDIT. I figured you would.

OK, thank you gentlemen very much; we appreciate you being here and we may have some additional questions in writing for you.

We will take panel IV. We have Mr. Mike Bogna, who is the chairman of the Merced County Board of Supervisors and who has been here all morning and we appreciate very much his patience; I know he has a lot of things to do and we appreciate him being here today.

We have John Cullen, who is from the Merced County Human Services Agency, as well. And we do have Michael Ford who is from

the Merced County Department of Public Health; Lt. Henry Strength, who is with the Merced County Sheriff's Office; and Ronald Tiffee, who has been here as well this morning and we appreciate that; he is the superintendent of Merced County Office of Education.

We appreciate all of you being here this morning. You have heard the testimony and you are welcome to read your statements, paraphrase your statements, however you would like to do them.

Chairman Bogna.

STATEMENT OF MIKE BOGNA, CHAIRMAN, BOARD OF SUPERVISORS, MERCED COUNTY, CA

Mr. BOGNA. Thank you very much, Chairman Condit and members of the panel. I want to thank you for coming to Merced County to hear from people where the rubber meets the dirt. Our infrastructure is fading, we have lost much of our pavement and so forth; our resources are eroding fast.

I would like to address the idea of the illegal prisoners in our system here and the return of those to their host countries; I agree with that 100 percent. I know it has not been a workable process so far but I think it is something we should spend more time with.

There are other areas with the concern with our illegal aliens that we would also like to bring to your attention, that is the drain on our other services and resources such as the emergency medical services; we have to treat them in our medical facilities when they show up. The education system which I am sure Ron Tiffee is going to address, is a heavy burden on our system there, too.

Although the Federal Government has exclusive jurisdiction over the immigration policies, the terms and conditions for entry into the United States, Federal-level decisions have direct and indirect effects on the State and local governments in the form of our budgets; the composition of our citizenry; the utilization and quality of our services; and the general social, political, and economic character of our communities.

Though more immigrants are arriving, the Federal Government has reduced or constrained the few programs that assist new immigrants to integrate into the economic, social, and civic life of the United States. New legislative and judicial mandates are extending State and local responsibility for providing services to immigrants. For States and localities, Federal immigration policy becomes State and local immigration policy at a time when revenues are hitting rock bottom.

As the number of immigrants and refugees arriving in the United States increases, State and local governments are attempting to meet their needs for education, job placement, and health and human services. Recent trends in immigration policies are heightening the impact for States and localities. Newcomers have put a strain on public resources and infrastructure. More than one-third of all newcomers settle in the Golden State.

On the State and local levels, spending for programs that normally assist immigrants such as education, ESL, interpreter services, public assistance, indigent health, and so on are being reduced or eliminated. With fewer services, immigrants face significant barriers to becoming self-sufficient members of our communities.

Through our local communitywide refugee forum, which meets monthly to discuss workshop concerns that arise with the refugee population, we have found some issues that have a great impact on the culturalization process.

According to our Merced County Center for Diabetes, it is becoming evident that Southeast Asians have a higher incidence of diabetes that is not treatable by traditional treatment methods and, therefore, will have a devastating impact on the medical services there.

Also, reductions in our mental health department area have jeopardized the psychosocial programs, thus affecting the suicide prevention programs, the growing gang and violence programs, and the family crisis intervention programs.

And, as I mentioned before, the Immigration Reform and Control Act of 1986 promised aid to the support programs in the authorizing legislation but the aid has not been forthcoming. The State legalized impact assistance grant, SLIAG as we call it, was created to reimburse States with compliance of IRCA. However, in 1990, large portions of that SLIAG appropriations were deferred to later fiscal years. After the 1993 SLIAG appropriation of \$325 million, States will still be owed \$812 million in SLIAG funds in 1994.

In the absence of a comprehensive Federal policy to provide for refugees and immigrants, State and local governments are creating immigrant policy. States and localities implement programs by Federal law, provide services mandated by the courts, and initiate programs and policies to serve the specialized needs of our new citizens.

And I am aware of your 140 bill and support it 100 percent on that area.

It is likely that the new administration and Congress will reexamine the immigration laws and consider a restructuring of the refugee program. Immigration reform should include the following components: Program planning and implementation at the community level to address service needs and community relations; and, two, to redress the fiscal inequity of immigrant services and costs among the Federal, State, and local levels.

In closing, I would like to ask you, Congressmen Condit and Peterson, to support in filling the director of Office of Refugee Resettlement in the Human Health Services Agency with someone who is familiar with resettlement programs and problems. We have not had that luxury so far.

And I thank you for the opportunity to present the views from our local concerns. I will answer any questions if you have any.

[The prepared statement of Mr. Bogna follows:]

My name is Mike Bogna. I am a Merced County Supervisor representing the third district and have the honor of serving as Chairman of the Board of Supervisors this year. Thank you for coming to Merced County to hear from people where the rubber meets the dirt. (Our pavement is quickly eroding.)

Although the federal government has exclusive jurisdiction over immigration policy (the terms and conditions for entry into the United States), federal-level decisions have direct and indirect effects on the state and local governments -- in the form of our budgets, the composition of our citizenry, the utilization and quality of our services, and the general social, political, and economic character of our communities. Though more immigrants are arriving, the federal government has reduced or constrained the few programs that assist new immigrants to integrate into the economic, social, and civic life of the United States. Finally, new legislative and judicial mandates are extending state and local responsibility for providing services to immigrants. For states and localities, federal immigration policy thus becomes state and local immigrant policy at a time when revenues have hit rock bottom.

As the number of immigrants and refugees arriving in the United States increases, state and local governments are attempting to meet their needs for education, job placement, and health and human services. Recent trends in immigration policy are heightening the impact for states and localities. Newcomers have put a strain on public resources and infrastructure. More than one-third of all newcomers settle in the Golden State.

On the state and local levels, spending for programs that normally assist immigrants such as education, ESL, interpreter services, public assistance, indigent health care, and so on, are being reduced or eliminated. With fewer services, immigrants face significant barriers to becoming self-sufficient members of their new communities.

Through our community-wide Refugee Forum, which meets monthly to discuss and workshop concerns as they arise with the refugee population, we have found several issues that have a great impact on the culturization process.

- According to Merced County Center for Diabetes, it is becoming evident Southeast Asians have a higher incidence of diabetes that are not treatable by traditional treatment methods, therefore, will have a devastating impact on medical services.
- Reductions in Mental Health have jeopardized the psychosocial program, thus, affecting suicide prevention, the growing gang and violence issues, and family crisis intervention.

Another area that begs attention is illegal aliens, and the drain they have on our services and resources. According to Governor Wilson, California spends over \$1 billion for emergency medical services, \$1 billion plus on education, billions on other social services, and almost a billion for incarcerating illegal aliens in our state prisons. A solution to the prisoners has been suggested by our state legislature, and that solution would be to contract with Mexico to return these prisoners to their institutions at their cost of incarceration which we know is many times less than our own domestic costs.

Although the federal government has exclusive jurisdiction over immigration, there is a lack of responsibility for immigrants after their arrival. Federal resettlement programs are piecemeal and inadequate.

Information Reform and Contract Act of 1986 (IRCA) promised aid to the support programs in the authorizing legislation but has not been forthcoming. State Legalized Impact Assistance Grant (SLIAG) was created to reimburse states with compliance of IRCA. However,

in 1990 large portions of the promised SLIAG appropriations were deferred to later fiscal years. After the 1993 SLIAG appropriation of \$325 million, states will still be owed \$812 million in SLIAG funds for 1994.

In the absence of a comprehensive federal policy to provide for refugees and immigrants, state and local governments are creating immigrant policy. States and localities implement programs required by federal law, provide services mandated by the courts, and initiate programs and policies to serve the specialized needs of their new citizens.

It is likely that the new administration and Congress will re-examine immigration laws and consider a restructuring of the refugee program. Immigration reform should include the following components: 1) program planning and implementation at the community level to address service needs and community relations and 2) a redress of the fiscal inequity of immigrant revenues and costs among the federal, state, and local levels.

In closing, I would like to ask you to support filling the vacancy of the Director of the Office of Refugee Resettlement in the Health and Human Services Agency with someone familiar with local resettlement programs.

Thank you, again, for the opportunity to present some of our local concerns.

Mr. CONDIT. I appreciate that. Why don't we do this: If you have time, why don't we go down—can all of you testify from where you are sitting—and then we will have a little discussion after you are finished.

Mr. Cullen, why don't you go next?

STATEMENT OF JOHN CULLEN, DIRECTOR, HUMAN SERVICES AGENCY, MERCED COUNTY, CA

Mr. CULLEN. My name is John Cullen. I am the director of the Human Services Agency for Merced. Our agency is responsible for the delivery of the public assistance programs, aid to families with dependent children, as well as the employment and training programs such as GAIN or JOBS. Our agency is also responsible for social services such as adult protective services and child welfare services.

In the provision of our public assistance and social service programs, we have seen a significant impact as a result of the Federal policies on immigration. Those policies basically impact us in two regards, one, as a result of Federal policy regarding refugee resettlement and two, Federal policy on immigration of documented and undocumented people.

Over the next few minutes, I would like to speak basically to the refugee resettlement issues that impact us. As Mr. Bogna said, the impact of refugee resettlement is great when you consider that one-third of all new immigrants coming to this country come to California. And it is also important to recognize that over 60 percent of all of the Hmong in the world live in the Central Valley. This has created a significant impact on this area from a social service and public assistance delivery perspective over the past 10 years.

Right now there are approximately 14,000 Southeast Asians in Merced County comprised mostly of Hmong, Low-land Laotian, and Mien. These individuals did come to this country following the Vietnam war, as you are aware, in order to avoid persecution.

Additionally, they have come here from basically a 14th-century lifestyle, supported by slash and burn and barter economies and have little of the skills necessary to survive in this country upon their arrival. Most of them came to the United States illiterate, not only in English but in their own language. Most of the folks that have settled in our county have found themselves facing cultural and economic barriers which are significant including lack of English language skills, absence of job skills, cultural values that promote early marriage and large family size, and major trauma associated with being transplanted from a 14th-century lifestyle to the current.

Additionally, a major impact in Merced has been our economic climate. During the past decade, we really have had a grim economic climate. Since 1982, we have averaged double-digit unemployment every year. Last month, we exceeded 20 percent unemployment.

Currently, 36 percent of our entire county population is on some form of public assistance; 85 percent of our Southeast Asian population is on public assistance.

Southeast Asians, while they comprise about 6 percent of our county population, they are over 50 percent on our AFDC, aid to

families with dependent children, unemployed program, resulting in a Federal, State, and county annual cost in excess of \$22 million. That is \$22 million the county to the south of us does not have to pay, the counties to the east and west of us do not have to pay.

The Refugee Act of 1980 required local governments to establish a number of categorical public assistance programs for refugees. Initially, those categorical assistance programs were set at a 36-month eligibility period. Over the past decade, basically, most of the Federal reimbursement for public assistance programs has been eliminated.

At this point, we are down to basically refugee cash and medical assistance, which are primarily programs for people that are not eligible for other standard welfare programs; and those programs, while eligibility also started at 36 months on those, is down to 8 and current Federal administration plans are to cut the program down to as low as 3 months of eligibility. When those eligibilities are curtailed, local and State government do pick up the slack.

There have been a number of great initiatives under the Federal refugee program that Merced County has been able to take advantage of and we would continue to support those, the prime area of which has been the Targeted Assistance Program and the Refugee Employment and Social Service Programs. Through both of these, the Federal Government has been able to target moneys to the area to provide self-sufficiency services for refugees. When one figures that a public assistance recipient is receiving \$700-\$1,000 a month in cash assistance, and with an average of approximately \$4,000 of employment-generating services, a person can go off public assistance, it does not take long for there to be a quick cost benefit.

Another successful initiative of the Federal Government has been a program called the Hmong national strategy, also funded under the Refugee Reauthorization Act. Under that program, we have been able to target families for employment preparation, by training a number of members of the family in order to have a multiple wage-earner strategy. Also, the Southeast Asian community itself, became a service provider to help themselves and other community members.

Overall, in conclusion, over the past decade we have learned enough to know that we need to revisit the Federal policy on refugee resettlement. The partnership originally provided that the Federal Government would make decisions on refugee admissions, provide a cadre of services, and the local and State governments would in turn provide the essential services that refugees needed. Over the past decade, we have seen the Federal moneys basically dry up to provide those social services while admissions numbers remain high.

In making specific recommendations for the refugee program and its reform, we would suggest that any refugee reauthorization link the number of refugee admissions to a Federal domestic service program funding level; that Federal funding should continue with a 100 percent reimbursement level for financial assistance, medical care, social services; that time in the United States should not be the sole eligibility criteria but rather an attainment of a reasonable level of self-sufficiency.

We would also recommend that there be some consolidation at the Federal level with employment programs such as JOBS, JPTA, food stamp employment and training, refugee employment and training, and that the eligibility criteria for those programs be brought together so that we could eliminate duplications in those programs and at the same time target money better to eliminate welfare dependency.

We would also recommend that the refugee program receive a permanent authorization instead of this annual battle of reauthorizing the 1980 act.

In considering future changes to refugee programs such as the private resettlement program that was suggested last year, we would recommend that those major changes not be undertaken without a full debate involving local service providers and that Congress eventually authorize any redirections of the program and not leave it solely to the administration.

We would also suggest that, when identifying funds for targeted assistance as well as refugee employment and social service funding, that the Federal Government use impact statistics and dependency rates for determining how those moneys are to be distributed around the country. There is talk of an administration plan to stop using dependency statistics and stop using impact statistics and, in those cases, areas like the Central Valley would not be able to receive the targeted assistance funding we need to do self-sufficiency programs.

In conclusion, thank you for the opportunity to present the information to you; I would be glad to answer any questions.

STATEMENT OF BRUCE C. BUHLER, DIRECTOR, HEALTH CARE FINANCING, MERCED COUNTY, CA

Mr. BUHLER. Mr. Condit, Mr. Peterson, ladies and gentlemen, this testimony addresses some of the concerns from a hospital perspective that the county has as a result of the immigration and alien status of the beneficiaries.

Merced County has had a long history of providing health care. Its system includes the county resources of public health; mental health department; home health; and Merced Community Medical Center, the county hospital. Patients seeking medical services within this system receive a high quality care from dedicated professionals.

In 1982, the State transferred the responsibility of the medically indigent adults from the State to counties and established formulas to allocate State funds to participating counties. Those eligible beneficiaries include Merced County residents who are not blind, not disabled, between the ages of 21 and 65, and are not linked to Medi-Cal in any way.

Merced County developed the necessary system to identify and care for this population, "those who are not supported and relieved by their relatives or friends, by their own means, or by State hospitals or other State or private institutions," through its comprehensive health care delivery network and authorized community specialists.

Legalized aliens under the Immigration Reform and Control Act of 1986 and the Omnibus Budget Reconciliation Act of 1986 are eli-

gible for medical services through State Medi-Cal or county medical assistance programs such as the one Merced set up.

Merced County provides services to the eligible documented aliens through its medical assistance program. Often new immigrants seek medical benefits through this medical assistance program for services which obviously were needed but not provided in their country of origin.

Costs for services provided to the eligible legalized aliens may be claimed by the county through the State and receive legalized indigent medical assistance/State legalization impact assistance grant, known as LIMA/SLIAG, Federal funds as reimbursement.

From fiscal year 1987-88 through fiscal year 1990-91, these 4 fiscal years, Merced County received approximately \$1.5 million for medical services. Reimbursements came only after timeconsuming patient identification, claims reporting, and lengthy lag times between dates of service and receipt of payment. The claim for fiscal year 1991-92 of a little over \$1 million remains to be paid. The soon completed fiscal year 1992-93 will likely have a similar-sized claim.

Initially, the county's allocation for medically indigent adults was supplemented by the LIMA/SLIAG funds but more recently the county's allocation was effectively reduced by the amount of the anticipated LIMA/SLIAG reimbursement. Identified eligible legalized aliens have increased from 206 in 1987-88 to 1,996 in fiscal year 1991-92 while, during the same time, State funding for the medically indigent adults has declined.

In addition to those identified as legalized and covered under the medical assistance program in the county, in 1992 there were an additional 2,500 OBRA aliens and almost 900 IRCA aliens eligible for Medi-Cal benefits in Merced County. The OBRA 1986 law requires States to provide emergency medical services, including labor and delivery services, through the Medicaid program to all undocumented immigrants who are otherwise eligible. Through Federal-State cost sharing, approximately half the cost of Medi-Cal services provided to citizen children and the undocumented is paid for by Federal funds.

We would encourage the Federal match continue so that it does not get transferred to a partnership between counties and States.

All of the OBRA Medi-Cal eligibles and most of the IRCA eligibles receive restricted Medi-Cal benefits. Followup care is restrictive. "Treatment aimed at a cure or long-term solution . . . related to the underlying chronic condition shall not be authorized or reimbursed by the Medi-Cal program." Ethically appropriate services which are highly recommended by physicians are sometimes denied. These types of situations are considered on a case-by-case basis in the county hospital, Merced County Medical Center. The hospital services may be considered uncompensated charity care and the physicians may seek reimbursement from other sources or waive fees entirely.

During fiscal year 1991, approximately 2,500 visits representing about 2,000 individuals with total medical charges of about \$1.2 million were made by undocumented individuals to the hospitals in Merced County. These individuals did not have documentation of Medi-Cal eligibility nor legal authorization to be in this country.

This does not include any physician charges for those visits, nor does it include uncompensated care provided by community clinics which do serve a substantial amount of this same population.

Proposition 99, or the tobacco tax initiative in California, funds were used in Merced County to partially compensate hospitals for their allowable uncompensated care. Approximately one-third of the countywide uncompensated care in the hospitals is provided to undocumented aliens.

Just a little bit of statistics here: Approximately half of the undocumented people, those with no identification, are children. Of all of the people in the county system, a little over half are of Hispanic ethnicity, about a quarter are white, 17 percent are black, and 7 percent are other categories or unknown. The most common diagnosis are problems relating to the circulatory and digestive systems. Diabetes is common and visual and dental problems prevail, also.

In summary, I would like to just make comments that undocumented aliens, those with no documentation or are here illegally, represent about \$1.2 million of lost revenue to the hospitals. The LIMA/SLIAG claim that is outstanding for fiscal year 1991-92 is about \$1 million and that has already been discounted in relation to our charges. The State has told us that we may expect, if it is paid, 30 to 50 cents on the dollar so that will be discounted again. We anticipated a claim in 1992-93 of about the same amount.

There are approximately 7,300 documented and undocumented immigrants annually in the health care system seeking medical services at hospitals. About half of those are covered by Medi-Cal and with restricted benefits, about a quarter of them are covered by one of the county's programs receive full scope benefit where the funding is uncertain and at times the State supplants its responsibility with Federal funds. It is woefully underfunded.

The uncompensated care that is provided to the remaining quarter, who are undocumented, provides little or no reimbursement to the providers, both hospitals and physicians. The county, as a safety net provider of medical services, provides medically necessary services to those presenting at its facility. Policies which do not mitigate this impact on the safety net contribute to the increased cost of health care.

Thank you.

[The prepared statement of Mr. Buhler follows:]

TESTIMONY FOR THE HOUSE SUBCOMMITTEE
ON INFORMATION, JUSTICE, TRANSPORTATION AND AGRICULTURE
THE HONORABLE GARY CONDIT, CHAIRMAN

PRESENTED JUNE 2, 1993
BY BRUCE C. BUHLER
DIRECTOR OF HEALTH CARE FINANCING, MERCED COUNTY

This testimony will address some of the issues associated with medical care in Merced County predominately from the hospital perspective as a result of immigration or alien status of beneficiaries.

Merced County has a century old tradition of providing health care. Its system includes the county resources of Public Health, Mental Health, Home Health and Merced Community Medical Center, the county hospital. Patients seeking medical services within that system receive high quality care from dedicated professionals.

In 1982, the State transferred the responsibility of the Medically Indigent Adults (MIA) from the state to counties and established formulas to allocate state funds to participating counties. Eligible beneficiaries include those who are Merced County residents, not blind, not disabled, between 21 and 65, and are not categorically linked to Medi-Cal. Prior to 1982 these individuals were eligible for Medi-Cal.

Merced County developed the necessary system to identify and care for this population, "who are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions, through its comprehensive health care delivery network and authorized community specialists.

Legalized aliens under the Immigration Reform and Control Act of 1986 (IRCA) and Omnibus Budget Reconciliation Act of 1986 (OBRA) are eligible for medical services through state Medi-Cal or county medical assistance programs. Merced County provides services to eligible documented aliens through its Medical Assistance Program (MAP). Often new immigrants seek medical benefits through MAP for services which obviously were needed by not provided in their country of origin.

Costs for services provided to Eligible Legalized Aliens (ELA) may be claimed by the county through the state and receive Legalized Indigent Medical Assistance/State Legalization Impact Assistance Grant (LIMA/SLIAG) federal funds as reimbursement. From 1987-88 through 1990-91, four fiscal years, Merced County received \$1.475 million. Reimbursements came after time consuming patient identification, claims reporting and lengthy time lags between dates of service and receipt of payment. The claim for FY 1991-92 of \$1,012,960 remains to be paid. The soon to be completed FY 92-93 will likely have a claim of similar amount. Initially the county's allocation for MIA's was in addition to the LIMA/SLIAG funds. More recently the county's allocation was effectively

reduced by the amount of the anticipated LIMA/SLIAG reimbursement.

Identified ELAs have increased from 206 in FY 87-88 to 1,886 in FY 1991-92. State funding for MIAs has declined for the same period.

In addition to those identified as legalized and covered under MAP in 1992 there were an additional 2,519 OBRA aliens and 894 IRCA aliens eligible for Medi-Cal benefits in Merced County. OBRA '86 requires states to provide emergency medical services, including labor and delivery services, through the Medicaid program to all undocumented immigrants who are otherwise eligible. Through federal-state cost sharing approximately half of the cost of Medi-Cal services provided to citizen children and the undocumented is paid by federal funds.

All of the OBRA and 3/4 of the IRCA aliens were eligible for the restricted Medi-Cal benefits. Follow-up care is very restrictive. "Treatment aimed at a cure or long-term solution...related to the underlying chronic condition shall not be authorized or reimbursed by the Medi-Cal program." Ethically appropriate services which are highly recommended by physicians are sometimes denied. These types of situations are considered on a case by case basis at MCMC. The hospital services may be considered uncompensated charity care and the physicians may seek reimbursement from other sources or waive the fees.

During FY 1991-92, 2,471 visits, representing about 2,000 individuals, with total medical charges of \$1.2 million were made by "undocumented" individuals to the hospitals in Merced County. These individuals did not have documentation of Medi-Cal eligibility nor legal authorization to be in this country. This does not include the physician charges for those visits, nor does it include uncompensated care provided in private physician offices and community clinics. Proposition 99, the Tobacco Tax Initiative, funds were used in Merced County to partially compensate hospitals for their allowable uncompensated care. Medical care to the undocumented was about 1/3 of county-wide uncompensated hospital care.

Approximately 1/2 of the "undocumented" in this group are under age 21. About 53% are of hispanic ethnicity, 23% are white, 17% are black, and 7% are other/unknown categories. Their most common diagnosis are problems with the circulatory and digestive systems. Diabetes is common as are vision and dental problems.

In summary, the following items are results of federal immigration policy.

Undocumented aliens represent about \$1.2 million of lost annual revenue to hospitals.

LIMA/SLIAG remains unpaid for FY 19-92 at \$1.0 million.

LIMA/SLIAG for FY 92-93 could be \$1.0 million.

About 7,300 documented and undocumented immigrants annually seek medical services at hospitals in Merced County.

Medi-Cal covers less than half of the immigrants covered by OBRA and IRCA in Merced County for medical services with limited benefits.

Merced County, through MAP, provides 1/4 of the OBRA and IRCA documented immigrants with services equivalent to full scope Medi-Cal; however, funding is uncertain and is used by the State to supplant other funds.

Merced County hospitals provide medically necessary care to the remaining 1/4, who are undocumented, with little or no reimbursement from the patient, their friends or family, or state or federal programs.

Mr. CONDIT. Thank you, Mr. Buhler.
Mr. Ford.

**STATEMENT OF MICHAEL FORD, DIRECTOR, DEPARTMENT OF
PUBLIC HEALTH, MERCED COUNTY, CA**

Mr. FORD. Thank you, Mr. Chairman and Congressman Peterson; I appreciate the opportunity to speak with you this morning on an issue that is of great importance to our community.

When public health services are provided by the Merced County Health Department, the legal versus illegal immigration status is not part of patient information required or collected and honestly, at that point in time, it is not really of great concern to us. We are here to provide preventive and interventive services for the benefit of both that patient and for the community.

Our immunization program, well child program, sexually transmitted disease clinics, TB clinics, refugee program, and prenatal clinic all serve a large proportion of both legal and illegal immigrants, as well as refugees.

Bilingual staff, at an increased cost to the county, are needed in all service settings to facilitate communication and to try to assure that services are appropriate and understood by those limited in English proficiency. Having a different cultural background and lack of experience with both the United States and the California health care delivery systems are often barriers to effective and efficient care. It takes much longer to provide services to those populations with such barriers.

In our opinion, the majority of illegal immigrants are not counted in the Federal decennial census which is the basis for much of the Federal funding for related programs. Programs that are funded then by population-based means are underfunded.

In the past 8 years, 3,525 individuals have been seen through our refugee program at the health department and, since approximately 11,000–14,000 individuals of Southeast Asian ethnicity live in Merced County, a large number of them had to have come through secondary migration and through birth. Federal funding does not provide assistance for health screening for secondary migration but we still deal with almost the identical health problems as occur with primary migration. Much of this population has health care problems which require costly diagnosis and treatment, which have been mentioned by previous speakers.

Most individuals present with no or incomplete medical records. Posttraumatic stress syndrome, and chronic depression manifests in physical complaints that lead to high utilization of government-funded health care, often through multiple providers. The Southeast Asian population also presents other health care needs that impact local and State funds.

There is a very high birth rate with a significant number of these births occurring in teenagers. It is not unusual to have pregnancy occur in 13 and 14 year olds.

Merced County is 51st of the 58 California counties for percentage of births to 10 to 17 year olds. There were 689 teen births in Merced County in 1992. Asian women gave birth to 76 of those infants or about 11.2 percent of the total teen births.

The Southeast Asian population has an increased incidence of tuberculosis. Of the 23 cases of active TB seen by the health department in the past year, 7 were in Southeast Asian individuals. The three cases of drug-resistant tuberculosis found in Merced County during the past 2 years were elderly Southeast Asian individuals who had had partial treatment or reactivation of disease after treatment. This is a major problem and presents serious risks for spread of the disease both in families and in the community.

Hispanics make up the greater portion of the rest of our TB population under treatment. Of that group of individuals, 60 percent reported to us to be foreign born and the majority of them being new arrivals to the community.

Hepatitis B concerns are also prevalent within Southeast Asians. The need for additional treatment for hepatitis B prevention in children, newborn infants, is costly with immune globulin required at birth and extra followup services to assure complete hepatitis B immunization.

The limits on financial independence of the family members sponsoring some immigrants or those that come to this country through the normal and lawful means of immigration, those who are not refugees, and this occurs in our particular community frequently with the Pakistani and Indian populations, the limits on the financial independence of those family members then results in those new arrivals going on publicly funded county or State health care programs often very soon after arriving in this country and many of the older individuals have multiple serious chronic health problems.

Many migrant and other undocumented immigrant children receive State-funded well child care through our child health and disability prevention program. Federal migrant funding provides for screening of these children in community health centers, but does not pay for treatment of abnormal conditions identified at those well child exams.

The number of exams paid for by the State for migrant children who are not Medi-Cal eligible or Medicaid eligible—we call it Medi-Cal here, Congressman Peterson—increase seasonally. There were 672 State-funded exams for Hispanic children in March 1993 as compared to 354 in January 1993, a doubling in just a few months.

Tobacco money, called prop 99 money in California, that comes to the county, is dedicated in great part to providing for followup care for these children but is usually exhausted long before all the needs are met. Dental care is practically nonexistent for these children.

Our health department immunization clinics with limited Federal funding are severely impacted by undocumented immigrant children. These children often do not have any records so all immunizations must be repeated for school entry. Illegal status can usually be assumed when multiple children of different ages in the same family present for immunizations all at once. It is quite apparent to the staff that many of these children are recent arrivals in this country.

The interesting fact to me is that when we talk about border counties in California, that usually means San Diego and Imperial County, that are most heavily impacted; in reality, in practical

terms, the border counties extend clear up through Sacramento and we are part of that border county phenomenon that takes place. There is a great deal of ongoing migration of individuals from Mexico into this valley.

Emergency health care is a benefit available for qualified undocumented immigrants through Medi-Cal but many do not have cards for each month and may not be covered when emergencies occur, leaving the health care provider without payment. The bigger problem occurs when ongoing care after the emergency is medically required and ethically necessary.

The illegal immigrants frequently have motor vehicle accidents as they are completely unfamiliar with driving skills needed here. And again, in our rural area with two-lane roads and they are very dark at night, we have a lot of motor vehicle crashes and a lot of them involve these immigrants and the refugees. It occurs also with Southeast Asians, with our Indians; we have some Russian immigrants as well, too, in our particular community.

Clearly there is the occurrence of pregnant women coming to the United States illegally to have their babies, often just weeks or months before birth. There is also a fairly high birth rate among those already here illegally and who have resided here for some time. These women may experience delays in obtaining Medi-Cal coverage ranging from days to months, depending upon the availability of intake appointments and, frankly, the applicant's understanding of the process and ability to provide information that qualifies her. Delays of 3 months or longer in our Los Banos Prenatal Clinic have not been unusual.

Currently, the county clinics are the only prenatal providers seeing women prior to their obtaining Medi-Cal coverage. At Los Banos in the Prenatal Clinic, 30 of the 42 women currently receiving prenatal care are undocumented.

Delay in obtaining Medi-Cal results in delay in obtaining prenatal care in many cases. Merced County ranks 53rd of the 58 counties in women receiving late or no prenatal care. Hispanic teens had 46 percent, almost 47 percent of the teen births in Merced County in 1992.

Federal funding is provided to the health department for maternal and child health-related activities, for immunization programs, for refugee health screening programs, but frankly funding is limited and it is really inadequate to support all of those program needs.

WIC funds do come to Merced County to help provide additional food for pregnant and postpartum women, infants, and children. Locally, the number of eligibles and the size of the caseload is expected to increase dramatically over the next 2 years.

Federally qualified health centers, primary health care centers, help with primary health care but do not meet the full need that exists within this community.

The influx and impact of Southeast Asians and migrant Hispanics has severely taxed the infrastructure of the Merced County Health Department. Our outdated facilities are inadequate in size and utility to accommodate the growth in service needs.

And, as the chairman knows, Congressman Condit, Merced County has requested that the Federal Government assist in fund-

ing the construction of a new public health center for this community and is appreciative of the preliminary assistance provided by Congress. But we seek additional appropriations to fund approximately half of the construction costs of this project as we believe that about half of our needs are related to the impacts resulting from Federal policies and actions associated with refugees and immigrants, both legal and illegal.

Local resources to support public health services are severely limited and State budget actions threaten to shrink those resources even further. Instead of meeting the community public health needs, we are retreating and limiting our activities to live within reduced budgets.

There are limited local dollars available for job training, low-income housing, education, all of which tend to maintain the cycle of poverty, dependency, and antisocial behaviors, thus creating more problems for health care providers.

Domestic violence, teen pregnancy, poor dental health are only a few examples of health problems that are poverty related and are seen frequently in Merced County. There is definitely more potential for violence due to unemployment, both in adults and youths.

Federal policies on refugees and immigrants have had and continue to have a substantial impact upon the public health services of Merced County. We look to you for your awareness of this reality and your assistance in helping us to address the needs of those populations along with the entire community of Merced County.

Thank you.

[The prepared statement of Mr. Ford follows:]

**TESTIMONY OF
MICHAEL FORD, M.P.H.
MERCED COUNTY DIRECTOR OF PUBLIC HEALTH
BEFORE THE
HOUSE SUBCOMMITTEE ON INFORMATION, JUSTICE,
TRANSPORTATION AND AGRICULTURE
THE HONORABLE GARY CONDIT, CHAIRMAN**

When public health services to clients are provided by the Merced County Health Department, the legal vs. illegal immigration status is not part of information required or collected nor of any concern to us. We are here to provide preventive and interventive services for the benefit of the patient and the community. The Immunization Program, CHDP, Sexually Transmitted Disease Clinic, TB Clinic, Refugee Program, and the Los Banos Prenatal Clinic all serve a large proportion of legal and illegal immigrants.

Additional bilingual staff are needed in all service settings to facilitate communication and to try to assure that services are appropriate and understood by those limited in English proficiency. Having a different cultural background and lack of experience with California health care delivery systems are often barriers to effective, efficient care. It takes longer to provide services to these populations with such barriers.

In our opinion, the majority of illegal immigrants are not counted in the Federal decennial census which is the basis for much of the Federal funding for related programs. Programs that are funded by population-based means are therefore under funded.

In the past eight years, 3525 individuals have been seen through the Refugee Program at the Health Dept. Since approximately 11,000 individuals of Southeast Asian ethnicity live in Merced County, a large number had to have come through secondary migration and births. Federal funding does not provide assistance for secondary migration, but the community still deals with almost the identical issues as with primary migration. Much of the population has health care problems which require costly diagnosis and treatment. Most individuals present for care with no or incomplete medical records. Post-traumatic stress syndrome and chronic depression manifest in physical complaints that lead to high utilization of government funded health care, often through multiple providers. The Mental Health system is increasingly handicapped by lack of funding to address these issues and is not utilized effectively at times due to cultural beliefs.

The Southeast Asian population also presents other health care needs that impact local and state funds. There is a high birth rate with a significant number of these births occurring in teenagers. It is not unusual to have pregnancy occur in thirteen and fourteen year-olds. Merced County is 51st of 58 California

Counties for percentage of births to 10-17 year-olds, 5.5% in the years 89-91, 689 births in 1992. Asian women (19 and younger) gave birth to 76 infants, 11.19% of the total teen births.

The Southeast Asian population has an increased incidence of tuberculosis. Seven of the 23 cases of active TB seen by the Health Dept. in the past year were in Southeast Asian individuals. The three cases of drug-resistant tuberculosis found in Merced County during the past two years were in elderly Southeast Asian individuals who had partial treatment or reactivation of disease after treatment. This is a major treatment problem and presents serious risks for spread of the disease both in families and the community.

Hepatitis B concerns are also prevalent within this group. The need for additional treatment for hepatitis b prevention in children is costly with immune globulin required at birth and extra follow-up services to assure complete hepatitis b vaccination.

The limits on financial independence of the family members sponsoring some immigrants who are not refugees (often those of Pakistani or Indian background) results in the new arrivals going on publicly funded county or state health care programs, often very soon after coming into the country. Many of the older individuals have multiple, serious health problems.

A large number of the individuals, primarily Hispanic, who applied for the Amnesty program are known to have brought many family members to join them in this country, who would otherwise have been considered illegal immigrants.

Many migrant and other undocumented immigrant children receive state funded well child care through CHDP. Federal migrant funding provides for screening of these children in Community Health Centers, but does not pay for treatment of abnormal conditions identified at well child exams. The number of exams paid for by the state for migrant children who are not MediCal eligible increases seasonally. There were 672 state funded exams for Hispanic children in March, 1993 as compared to 354 in January, 1993. Prop 99 money the county receives is dedicated to providing for follow-up care for these children but is exhausted before all the needs are met. Dental care is practically non-existent for these children.

Health Dept. immunization clinics with limited funding are severely impacted by undocumented immigrant children. These children often do not have any records so all immunizations must be repeated for school entry. Illegal status can be assumed when multiple children of different ages in the same family present for immunizations.

Emergency health care is a benefit available for qualified undocumented immigrants through MediCal, but many do not have cards for each month and may not be covered when emergencies occur, leaving the health care provider without payment. The bigger

problem occurs when ongoing care after the emergency is medically required and ethically necessary. The illegal immigrants frequently have motor vehicle accidents as they are not familiar with driving skills needed here.

There is a tremendous amount of non-reimbursed care for chronic illness for undocumented immigrants not having medical coverage. Health care problems may be neglected until costlier interventions are needed. Finding access to care is a problem when surgery or other specialist care is needed and is not available in the county.

Those applying for Amnesty who have limited services MediCal coverage are not eligible for care of serious medical conditions such as breast cancer, but cannot leave the country for care without compromising their Amnesty status. Their disease therefore exacerbates and care provided is then uncompensated.

Clearly there is the occurrence of pregnant women coming to the U.S. illegally to have their babies, often just weeks or months before birth. There is also a fairly high birth rate among those not here legally and who have resided here for some time. These women may experience delays in obtaining MediCal coverage ranging from days to months depending on the availability of intake appointments and the applicant's understanding and ability to provide information that qualifies her. Delays of three months in the Los Banos area have not been unusual. Currently, the county clinics are the only prenatal providers seeing women prior to their obtaining MediCal coverage. At the Los Banos Prenatal Clinic run by the Health Dept. 30 of the 42 women currently receiving prenatal care are undocumented. Delay in obtaining MediCal results in delay in obtaining prenatal care in many cases. Merced ranks 53rd of 58 counties in women receiving late or no prenatal care. Hispanic teens had 46.83% of the teen births (318/679) in 1992 in Merced County.

Illegal immigrants impact the local and state criminal justice systems, jails, and prisons. A variety of health care services are needed in those settings as well. These individuals impact county orthopedic clinics, sexually transmitted disease clinics, TB clinics, and may require additional services in the places where they're being held.

Federal funding is provided to the Health Dept. for Maternal and Child Health activities, for Immunization programs, and for Refugee health screening for primary immigrations. Funding is limited and inadequate to support all program needs.

WIC monies help provide additional food for pregnant and postpartum women, infants, and children. Locally, the number of eligibles and the size of the caseload is expected to increase dramatically over the next two years.

Federally qualified health centers and migrant farm worker funded clinics help with primary health care, but do not meet the full

need that exists within the community.

The influx and impact of Southeast Asians and Migrant Hispanics has severely taxed the infrastructure of the Merced County health Department. Our outdated facilities are inadequate in size and utility to accommodate the growth in service needs for Merced County.

As the Chairman knows, Merced County has requested that the Federal Government assist in funding the construction of a new Public Health center for this community and is appreciative of the preliminary assistance provided. But we seek additional appropriations to fund approximately half of the construction costs and we believe that about half our needs are related to the impacts resulting from federal policies and actions relating to Refugees and immigrants, both legal and illegal.

Local resources to support public health services are severely limited and state budget actions threaten to shrink those resources even further. Instead of meeting the community public health needs, we are retreating and limiting our activities to live within reduced budgets.

There are limited local dollars available for job training, low-income housing, education, all of which will tend to maintain the cycle of poverty, dependency, and antisocial behaviors, thus creating more problems for health care providers. Domestic violence, teen pregnancy, poor dental health are only a few examples of health problems that are poverty related and are seen frequently in Merced County. There is definitely more potential for violence due to unemployment, both in adults and youths. Teenage gang activity is becoming apparent in the Merced area and students have been found with weapons in the schools.

Federal policies on Refugees and immigrants have had and continue to have a substantial impact upon the public health services of Merced County. We look to you for your awareness of this reality and your assistance in helping us to address the needs of those populations along with the entire community of Merced County.

Mr. CONDIT. Lieutenant, I think you are next, please.

STATEMENT OF HENRY STRENGTH, LIEUTENANT, SHERIFF'S DEPARTMENT, MERCED COUNTY, CA

Mr. STRENGTH. First of all, let me thank you for allowing me to speak in behalf of the law enforcement phase in regards to illegal aliens. I am speaking in behalf of Tom Sawyer who is out of town this week; he wanted to be here.

After checking with the local jails that we have here, right presently, we do not have a major impact of illegal aliens when you are talking about Mexican population. They basically come here during the summertime when the harvest season is and they do their job here and then they leave and go back. I am more concerned with the Federal Government's immigration policy on the aliens from Southeast Asia.

Due to the county's climate being much the same as that in Southeast Asia, we have a large influx of Southeast Asians here. We are just presently starting to feel the impact of the Southeast Asian gangs. An example of this is about last month, a local Southeast Asian gang member killed an elderly shopkeeper in the commission of a robbery. They were not after money, they were not after food; they were basically after guns and ammunition. A little bit later on, one of the gang members was killed by another gang member with one of the guns that was stolen.

I do not believe that, if the government is going to bring a large influx of aliens into this country, any type of alien, is that they are going to have to do a little bit more for the community to provide resources to educate members of the community and the newcomers as well. I am not talking about a law enforcement aspect of it; you have heard what happens when you bring a large influx of any type of aliens into this community, what happens with not just law enforcement, with any agency within this county.

The Sheriff's Department currently has a limited grant for community service officer targeted at problem kids in the Southeast Asian population. It appears to be working. That is 1 person for the 14,000 that you have heard about. My understanding is that we have another influx coming in; there has got to be more done than just one person.

I don't have all the answers on how to make the transition effectively but I feel that, if the government moves aliens into any area, they have a responsibility to the families as well as the community to educate the aliens to a point they can interact with the community and become a vital part of it, not just isolate them.

The education should not come from the law enforcement arena but from the government's support to schools and also the local agencies involved in the education or support of those families.

In reference to the old saying, you pay for it now or you pay for it later; it is the same that we ought to use in this case. If we do not educate and provide jobs for the illegal aliens or the aliens that we put in here, no matter if they are from Southeast Asia, from Mexico, from any country, is that, if we do not provide it, later on

we are going to pay for it by the number of crimes that are committed and by the number of inmates incarcerated in the already overcrowded jails that we have.

Thank you.

Mr. CONDIT. Thank you, Lieutenant, we appreciate.
[The prepared statement of Mr. Strength follows:]



Merced County Sheriff's Department

700 W. 22ND STREET
 MAILING ADDRESS: 2222 "M" STREET
 MERCED, CALIFORNIA 95340
 TELEPHONE (209) 385-7360
 FAX (209) 385-7659



TOM SAWYER
 Sheriff

JERRY BROCKMAN
 Undersheriff

1 Jun 1993

Congressman Gary A Condit
 415 West 18th Street
 Merced, California 95340

Dear Congressman Gary Condit and Members of the Subcommittee:

My name is Henry Strength and I am a Lieutenant with the Merced County Sheriff's Department. I am writing this on behalf of Sheriff Tom Sawyer who will be out of town the week of your subcommittees meeting on 1 Jun 93.

First of all, let me take this opportunity to thank all of you for allowing me, and other members of this community, to voice our concern of the potential impact of the federal government immigration policy may have on local government and its agencies. I can only speak on behalf of the law enforcement end of the policy but I know there are other representatives here from other agencies within this county.

The impact of illegal aliens from Mexico has no major effect on the local jails in this community, but if you check with the Southern California Counties, I feel the effect is quite significant. To get the overall effect of the Mexican illegal aliens, I would defer to the California Board of Corrections for a state wide effect.

I am more concerned with the Federal Government's immigration policy on aliens from Southeast Asia. Due to this County's climate being much the same as that in Southeast Asia, we have a large influx of Southeast Asians. We are starting to feel the impact of the Southeast Asian gangs. An example of this is that last month a local Southeast Asian Gang member killed an elderly shopkeeper in cold blood during a robbery. The gang was not after money or food but rather guns and ammunition. Later one of the gang members was killed, by one of the stolen guns, by another gang member. I am not indicating all Southeast Asians are gang members nor are they problem citizens. But I do believe if the government is going to bring a large influx of aliens to any area of this country, they (the government) need to provide resources to educate members of the community as to the newcomers as well as educating the newcomers to the community and their new surroundings.

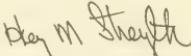
AN AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER

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The Sheriff's Department has a limited grant for a Community Service Officer targeted at problem kids in the Southeast Asian population. It appears to be working very well, but it is only a start. One person can only do so much and with the influx of more Southeast Asians to this community, something more needs to be done.

I don't have all the answers on how to make this transition effectively, but I feel if the government moves aliens into any area, they have a responsibility to the families as well as the community to educate the aliens to a point they can interact with the community and become a vital part of it, instead of isolating themselves. This education should not come from the law enforcement arena but from the governments support to schools and local agencies involved in the education of the families.

Sincerely,



Henry Strength, Lieutenant
Merced County Sheriff

Mr. Tiffee, the superintendent of schools, we appreciate you being here this morning; you have been very patient.

STATEMENT OF RONALD TIFFEE, SUPERINTENDENT OF SCHOOLS, MERCED COUNTY, CA

Mr. TIFFEE. Thank you Congressman Condit, we are glad to have you back in Merced County and we are particularly glad to see that you are still the chairman this morning of the subcommittee.

The U.S. Supreme Court ruling of 1982, *Pyler v. Doe* clearly states that the undocumented children and youth have the same rights to attend public schools as do U.S. citizens and permanent residents. Public schools are even prohibited from requesting information from parents regarding immigrant status.

Additionally, California law requires all children between the ages of 6 and 16 be in school. There are no exceptions based upon immigrant status. Therefore, not only do the schools serve all children, but there is really no accurate way to determine which students within a school are from immigrant families.

Once any child walks through the schoolhouse door, that child becomes our child and we must serve her or him well. Because, in doing so, we serve ourselves and our national interests well.

Let me quickly review some numbers for Merced County which are elaborated in my written response: From 1980 to 1992, we had a 55 percent increase in students from kindergarten through high school. Within this increase, our limited English proficient students grew 325 percent. Or, to put it another way, 58 percent of all the new students in our schools in Merced County over the last decade were from recent immigrant families.

In Merced County, these 9,000-plus immigrant students have required 300 additional classrooms at a cost of \$180 million. These 9,000-plus immigrant students cost Merced County taxpayers and the citizens of the State of California another \$180 million in operational costs during the past decade.

Right now, there are only 90 certified bilingual teachers in the county; but we need 300 more. There are 1 million limited English proficient students in the State of California; that is 20 percent of our kindergarten through 12th grade enrollment.

The bankrupt California budget has put \$1 million into its bilingual teacher training program; that is only \$1 per student to train our teachers in bilingual education.

Clearly then, there has been an enormous impact on the schools of Merced County by the immigration policies of the U.S. Government. It has put extraordinary pressure on our schools at a time of significantly reduced resources available for education.

If the impact is this large for a relatively small and rural county such as Merced, think of the impact on all of California.

The number of immigrant families and the diversity of languages, the educational background and educational needs represented by the students in the schools of California have never before been experienced by any school system. We are trying but it is becoming more difficult each year.

If the President and Congress set immigration policy and that policy brings students to the doorsteps of our schools and the President and Congress really believe that our children are our future,

as is often repeated, then the President and Congress must join us in Merced County, CA, to prepare all of our children to be independent, productive citizens who contribute to the political and moral leadership of our Nation.

Thank you.

Mr. CONDIT. Thank you very much.

[The prepared statement of Mr. Tiffee follows:]

TESTIMONY FOR THE
HOUSE SUBCOMMITTEE ON INFORMATION, JUSTICE, TRANSPORTATION
AND AGRICULTURE

THE HONORABLE GARY CONDIT, CHAIRMAN
PRESENTED BY
RONALD TIFEE, MERCED COUNTY SUPERINTENDENT OF SCHOOLS

This testimony will focus on the impact of immigration on the schools of Merced County, California. However, as Merced County might serve as a microcosm for the entire State of California, the impact of immigration we are experiencing locally permeates virtually every school district within California.

As a way of setting the parameters of these remarks, let me say that the schools of California and the nation, based upon the U.S. Supreme Court ruling of 1982, *PLYLER vs. DOE*, clearly states that undocumented children and youth have the same rights to attend public schools as do U.S. citizens and permanent residents. Public schools are even prohibited from requesting information from parents regarding immigrant status. Additionally, California law requires all children between the ages of 6 and 16 be in school. There are no exceptions based upon immigrant status. Therefore, not only do the schools serve ALL children, but there is really no accurate way to determine which students within a school are from immigrant families.

A second parameter that I would personally like to set is that the schools have a moral obligation to serve all children. For me, that is part of our covenant with children. It is a covenant that is not always easy to follow, but without such a commitment we shortchange the children AND the future of our state and nation.

As I approached the preparation of this testimony, the first task was to seek information on legal and illegal immigration into Merced County. I will not inundate you with a lot of figures and statistics, but there was one piece of data from the 1990 census that speaks to our situation. The census asked where people were born. This data determined that out of a total 1990 county population of 178,403, there were 35,357 or almost 20% foreign born. Most interesting is that when broken down to the decade of entry into the United States, the data looks like this:

Arrival since 1980	17,312
Arrival between 1970 and 1979	11,475
Arrival prior to 1970	6,570

Clearly, there has been an enormous acceleration of immigration into this community.

The above data parallels a set of data that the schools of California do collect annually. The school data tracks the number of non and limited English proficient students in the schools. If we make the assumption that there is a close correlation between recent immigration and lack of knowledge of English, a set of data can be derived that also helps to pinpoint the extent to which immigration has influenced our

schools. From 1980 through 1992, total student enrollment in the schools of Merced County increased from 28,320 to 43,847. This was an increase of 15,527 student or 55%. During the same time period, the population of limited English proficient students grew from 2,770 to 11,783, a numerical increase of 9013 students and a percentage increase of 325%! Put another way, 58% of all new students in our schools over the last decade were probably from fairly recent immigrant families.

Now what does this increase in immigration mean to the schools of Merced County?

1. An additional 300 classrooms over the last decade. The operational costs of providing education for these children in Merced County probably has added in excess of \$180,000,000 to the cost of education in Merced County over the past decade. And remember, Merced County is a relatively small county.
2. This additional 300 classrooms also required a capital expense to provide the necessary classrooms, offices, cafeterias, and buses. In California, since school construction funds are very scarce, operational funds are frequently used to purchase or rent portable classrooms to house students. I do not, within the time constraints of the preparation of this testimony, have any way to estimate the cost associated with the need for classrooms. But to give you an idea, those 300 classroom are the equivalent to at least 15 complete elementary schools which, at today's costs, are about \$12 million each or a total of about \$180,000,000.
3. These children need special assistance, especially to acquire English language. Good pedagogy and case law require that these students be served by teachers who speak their language so that their education is not delayed as English is acquired. Currently, Merced County has 90 teachers so trained, but needs another 300. Classrooms make do with bilingual instructional aides. It is not a viable long-term solution. It takes 5 to 7 years of training and practice for a person to gain real fluency and competence in a new language. Additional course work in English acquisition, bilingual methodology, and culture is needed. All of this takes time and money on the part of the school system and the teacher.

Currently, California is spending less than \$1,000,000 state-wide on its Bilingual Teacher Training Program. Some state and federal compensatory education funds are used to support such programs and Merced County has a number of ESEA Title VII bilingual education training programs, but the resources available are not even a bandaid for the problem. The federal government needs to significantly increase its funding of such training.

An additional special burden has been experienced in the schools by a particular sub-set of our immigrant children. These are the children who have arrived as refugees and who spent some of their young lives in danger and great deprivation. In an incidence higher than the general population, these youngsters arrive with untreated health problems. This has had a particular impact on programs for the deaf and hard of hearing. It is hard to treat an ear infection while fleeing through the jungle!

Two last comments regarding training of our school staffs. Colleges have been very slow to recognize and increase the number of bilingually trained teachers being produced. Perhaps there are incentives to either students or colleges that could increase the number of graduates prepared to teach our changing student population. The other is that with over 25% of the students in Merced County being of recent immigrant background, there is evidence to suggest that ALL 1700 teachers in our county need additional training in English language acquisition even if they do not need to become bilingual themselves.

Clearly then, there has been an enormous impact on the schools of Merced County by the immigration policies of the United States Government. It has put extraordinary pressure on our schools at a time of significantly reduced resources available for education. If the impact is this large for a relatively small and rural county such as Merced, think of the impact on all of California. The number of immigrant families and the diversity of languages, educational background, and educational needs represented by the students in the schools of California have never before been experienced by any school system. We are trying, but it is becoming more difficult each year.

This causes one to ask the question, if we did not have these 9000 extra students in our county, would the limited resources available have served our native born population without the burdens felt today? Would we be able to maintain a more diverse and challenging program instead of constantly being faced with what often seems to be an increasingly narrow educational program?

I raise these questions not to blame the immigrant family and their children for the economic plight of our schools. That would be neither fair or useful. Returning to the opening of this testimony, we have a legal and moral obligation to educate all the youngsters who arrive at our doors. We want to do it and we want to do it well! These children represent 25% of the students of Merced County. State-wide, there are now over 1,000,000 limited English proficient students that represent about 20% of the students enrolled in California schools, most of whom are here as the result of United States immigration policy. These children must be prepared to take their place in the California and national economy, and contribute to the political and moral leadership of our nation. They have become our children, now we must serve them and in so doing, serve ourselves and our national interests.

Mr. CONDIT. Before I begin our discussion, I just want to state, on behalf of myself and my colleague, Mr. Peterson, we appreciate you being here today; we appreciate all the local elected people and the people who serve on the county and city level to be here today.

We are here today to try to get your input and find some solutions and this is, for us, an important process. From my point of view, it is a process that sometimes does not take place when putting together any kind of Federal policy. And, if we don't tackle this difficult problem that all of you have just talked about, the situation is going to get worse and this community, as well as California will suffer.

And the questions that we have asked and the answers we have received from you today will help us in formulating the recommendation that will hopefully have some input on solutions. We want to be solution oriented.

And I apologize for stepping out but it is often said that I don't talk to the press very often and the gentleman kept sending this card up. So I did.

And what you just said, superintendent, I just said to him; he wanted me to already tell him what the policy ought to be. We are here today to accumulate information, we want to be fair to everyone. And whatever the policy is by the Federal Government, it then calls upon the States, the counties, and the cities to implement that policy.

And the only conclusion that I can tell you is that, if we ask them to implement it, we ought to give them the money to do so. So I hope, when you read the paper tomorrow, that is in there.

Anyway, thank you all for being here.

I do have a question for the superintendent about, you take any student that comes in, what is the profile once you find a student who is not a legal citizen?

Mr. TIFFEE. Well, most of the time, we don't find that out unless that student has to go for some service outside of the school district or perhaps some of these other organizations need to serve him, they have a need.

But, in terms of the schools, there is really no occasion that we find out, say, that they are illegal. When they come in, we put them in a classroom with a teacher and we start in to try to take them where they are.

Mr. CONDIT. Once they finish school, say 1 through K, then that is when their difficulties may start in terms of work?

Mr. TIFFEE. Well, once they go out in the work force, if they are fortunate enough to graduate from high school and go out in the work force, they will have to have, of course, a Social Security number; then that is when some of the troubles begin that we have already heard about today.

Mr. CONDIT. The great dilemma, because we have talked to several people about this, the profile that we get is, you may have parents who came here illegal, the child may have been 2 or 3 years old, they have gone through our entire educational system, they are Americans. They may have played on the football team, they may have won all kinds of awards, and what do we do when they go out to get work and assistance?

And we need to be considerate of that. These people are Americans and we need to figure out some way to deal with that.

I would like to, if I can, I don't know if it is Mr. Buhler or Mr. Ford or Mr. Cullen, maybe it is all three of you, ask a question regarding medical costs. You may have said it already but did you give us an amount? I know you are responsible for indigent care.

Out of that indigent care, how much of it is for undocumented residents; do you know?

Mr. BUHLER. Well, from a hospital standpoint, in one fiscal year, I believe it was 1991-92, we documented 2,500 visits for approximately 2,000 individuals who had no documentation, no Social Security cards, no Medi-Cal card.

In that group, and we are making somewhat of an assumption that they are clearly undocumented and are here illegally, but if they don't have the documentation, that is a pretty good conclusion.

Mr. CONDIT. What do you do? Do you treat them?

Mr. BUHLER. Yes.

What I want to emphasize is that emergency medical care is always provided. The county hospital is the safety net hospital and, in many cases, even things that would normally be considered elective are done in the county hospital because it is the medically appropriate, ethically appropriate thing to do.

Those costs, then, are just borne by the rest of us in higher health care costs, higher premiums for our insurance policies, that causes inflation to the health care delivery system.

Mr. CONDIT. This is open to anyone in the health care field: If you had to make a recommendation, that there is a committee together drafting up a proposal for health care, is there any elements of what we are discussing today that you would want them to put in a health care package for the country?

Mr. BUHLER. I assume you are referring to the President's Commission on National Health Reform?

Mr. CONDIT. Right.

Mr. FORD. What I have heard is that, of course, whatever package comes out would exclude the undocumented immigrants; and that is patently ridiculous, I think, from our standpoint because, when they do get sick, when they do get injured, they will present whether it is to a hospital or a physician or a health department and there should be some mechanism by which payment for those services could occur.

Mr. CONDIT. Because you are not going to turn them away?

Mr. FORD. We are not going to turn them away; nobody every turns them away. We do not turn away tuberculosis patients or those with sexually transmitted diseases or children that need a screening and that we then discover some problem that needs to be referred on. It becomes uncompensated care for us, i.e., the county, if there is no other mechanism to seek reimbursement for those services.

Mr. CONDIT. Right.

Mr. FORD. Many of them are eligible for Medi-Cal but many of them are not, as I have said, or they have difficulty getting that coverage.

Mr. CONDIT. If I hear you correctly, you are saying that whatever we do in INS reform, the emphasis ought to be to not allow illegals

immigration but, once they get here, if there is an accident that occurs, we must be humanitarian, we are going to take care of them. Illegal immigration is the fault of the INS policy so, therefore, we ought to be reimbursed for it?

Mr. FORD. Yes.

Mr. CONDIT. And, if it is part of the health care package, that gets to this mandated thing, we are mandated to take care of indigent and, as humanitarian effort, to take care of people, then you are reimbursed for that. And it is not elective or anything like that, just emergency; am I correct?

Mr. FORD. Yes, I don't consider tuberculosis care and treatment to be elective.

Mr. CONDIT. Any kind of contagious?

Mr. FORD. Yes.

Mr. CONDIT. Yes, I understand. Good.

To the Lieutenant, do you have any kind of liaison—I know that we have Border Patrol people inland here, which is kind of amazing to me the number of INS Border Patrol people we have up here this far from the border. Do you have a policy and how do you interface with those people?

Mr. STRENGTH. When we suspect that we have an illegal alien from Mexico in our jail system is that we will call Fresno, the INS in Fresno, and they will come up here, they come up here on a routine basis, it will be maybe two, three times a week, and they will check out all the people that we have. If the person, in their opinion, is an illegal alien, they will put a hold on them and, as soon as the county finishes with them through the court system, we will call and they will come up and pick them up.

We don't have that many people in our jail system any more that have the hold Immigration holds on them. When I checked the other day, we did not have anybody in there with a hold Immigration hold.

Mr. CONDIT. OK.

Mr. FORD. Mr. Chairman.

Mr. CONDIT. Mr. Ford.

Mr. FORD. If I could, sir, when you were out of the room I did make a comment about our immunization program that we hold every Monday evening, our night clinic. And I made the comment about border counties, that you generally think of San Diego and Imperial County as being border counties when, in fact, in reality, is that all the way up this valley, clear up to Sacramento, are border-impacted counties.

Every Monday night, as kids come to our immunization clinic, there is a new group that seems to have come across that border, some how, some way, and they have arrived in our community. And, again, like any other contagious disease, we want to prevent them from acquiring any of the vaccine-preventable diseases. And we see a lot of that.

Mr. CONDIT. Did you identify how much that cost you?

Mr. FORD. No, sir, we cannot give you an accurate figure for that because we don't really capture individual data as to whether an individual is legal, illegal, or what have you.

Mr. CONDIT. Is that a reimbursable cost for the immunization?

Mr. FORD. We attempt to charge fees, as well, too. We have a modest administration fee that we have and, of course, if somehow they are on Medi-Cal, we seek reimbursement through that basis. But, if they have none, we will bill them; but our no-pay rate is very high.

Since Supervisor Bogna is chairman of the Board of County Commissioners, he then has to deal with me and I have to deal with him relative to the budget for the health department.

Mr. CONDIT. I clearly understand that. I was in his position for a few years and everything filters down, we require something and then the State requires something; so I understand that.

You folks have done a great job and we appreciate you being here, we appreciate your patience. And we may have some additional questions that we would request that you respond to us in writing for our written documentation.

Thank you very much.

[The information is contained in the appendix.]

Mr. CONDIT. It is 12 o'clock. Would anyone object if we took a 15-minute break? We have a panel of elected officials and I apologize for doing that but we might be able to focus a little bit better.

Joe, do you have any objections to us doing that?

Mr. FRONTELLA. No.

Mr. CONDIT. OK, let's take a 15-minute recess, we will be back here at 12:20 and we will conclude this hearing relatively quick when we get back.

[Recess taken.]

Mr. CONDIT. We didn't quite make it back in 15 minutes and most of you probably knew that we would not. So I apologize to you.

We are going to take the local elected officials who I think have a good insight on this issue and I think they might want to focus a little bit on the mandated cost to them.

We have the mayor of Atwater who has been waiting all morning patiently and I appreciate him being here, Joe Frontella. We have the city manager of Merced, Mr. Marshall; we have the police chief of Merced, Patrick Lunney; we have the Merced housing and transportation director, Lee Pevsner; we have the superintendent of Merced City school district, Mr. DeLong; and we have Ron Cortez who is a board member for the Merced City schools.

And then we have one additional panel and we have had some requests from people to make statements, or at least to have a statement for the record, and we will absolutely allow that if people wish to do that after the next panel.

Mayor, thank you very much; it is so kind of you to be here today and we appreciate your patience.

STATEMENT OF JOE FRONTELLA, MAYOR, ATWATER, CA

Mr. FRONTELLA. Certainly.

Mr. Condit and members of the House Subcommittee on Information, Justice, Transportation, and Agriculture.

I thank you for inviting me here today to provide a testimony before you, this honorable body, concerning the impacts of the Federal immigration policy and the costs to local government associated with both legal and illegal immigration.

I have been asked to come before you to testify regarding the cost impacts associated with the Federal immigration policy on our local communities.

At the onset, I must tell you that such a task is quite overwhelming. As I begin to research the data on the issues relevant to testimony before this subcommittee, I immediately became aware of the lack of data which would be available to make this presentation to assist in shedding some honest light on the true scope and nature of the problems associated with the legal and illegal immigration and the provision of local government services to classify these consumers.

I do have provided before you a statement in this and I would want to hear from the rest of the people, to leave this statement, as it is, with you and close with this short statement.

I would like to thank you for providing me with this important opportunity to come before you briefly to discuss some of our concerns, the scopes of our concerns. I hope that we have been able in some small way to communicate to members of the subcommittee some of our concerns and hopes for action on the future with respect to the continued concerns we have regarding the cost and impacts of immigration on the local community.

I would like to give these gentlemen the opportunity to get their input in first and, with that, if I may at the end offer anything, I would be happy to do that.

[The prepared statement of Mr. Fontella follows:]

TESTIMONY BEFORE THE CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES INFORMATION, JUSTICE,
TRANSPORTATION AND AGRICULTURE SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS

JUNE 2, 1993

Mr. Chairman Condit and Members of the House Subcommittee on Information, Justice, Transportation and Agriculture:

Thank you for inviting me here today to provide testimony before this honorable body concerning the impacts of federal immigration policies and the costs to local government associated with both legal and illegal immigration.

I have been asked to come before you to testify regarding the costs impacts associated with federal immigration policy on local communities. At the outset, I must tell you that such a task is quite overwhelming. As I began to research the data on issues relevant to my testimony before this Subcommittee, I immediately became aware of the lack of empirical data which would assist in helping to shed some honest light on the true scope and nature of the problems associated with legal and illegal immigration and the provision of local government services to these classifications of consumers.

As the Mayor of the second largest city in Merced County, a county which has rich historical association with an agriculture-based economy, I can tell you that our county has responded and been forced to respond to the many challenges associated with federal

immigration policy and especially with respect to policies associated with migrant workers and illegal immigrants who have come to the San Joaquin Valley in search of work and a better life.

The impact that the influx of these workers has had on our county has not been inconsiderable. In my town, Atwater, California, our community has continued to provide full service to all residents regardless of immigration status. Needless to say, such a policy can be costly to taxpayers who are forced to shoulder the burden for providing these services to residents who do not pay taxes due to their immigration status but derive the benefits of these services nevertheless. These services run the gamut from police, fire and paramedic ambulance service to emergency medical care and hospitalization.

As an example of the costs impacts of migrant workers on the local community, currently in Merced County there are 50 Farmworker Housing Centers which are open from May to October, down from a high of 500. The Merced County Housing Authority is responsible for administering 286 housing units in five Farmworker Housing Centers. The remaining 45 Farmworker Housing Centers are operated by the private sector. Merced County's 286 housing units service approximately 1600 persons, all of whom must be classified as "families". Although exact figures are not available, anecdotal evidence suggests that as many as 90% of the users of residences in the Farmworker Housing Units either have permanent residency status or a legal status which permits them to work in the United States.

The remaining ten percent can be classified as illegal, single men comprising the majority of the undocumented aliens. This classification of migrant worker is not permitted access to housing units within the Farmworker Housing Centers.

When the federal government's Amnesty Program was implemented, demand for housing in these Centers doubled as migrant farmworkers returned to Mexico to retrieve their families. At the same time, demand by these newly arrived families for benefits covered by entitlement programs also increased resulting in added costs to local governments associated with schools, medical care and the provision of emergency services. At the same time, we have failed to see the promised relief from the federal government which was supposed to go to the State and in turn be redistributed to local jurisdictions for such expenditures as the costs associated with the rehabilitation and upkeep of the Farmworker Housing Centers which are home to these migrant worker populations locally for six months out of each year.

With respect to public safety service, due to the transient nature of the migrant farmworker population, the most elusive of homeless populations dating back to the Bracero Programs of the 1960's, the potential for exploitation is very high. Because migrant farmworkers deal mainly in cash transactions and do not remain in the area after the cropping season, unscrupulous persons and criminals work actively at taking advantage of their migrant status under the belief that migrant workers, and especially undocumented

migrant workers, are less likely to report being victimized and do not stay around the area long enough to permit comprehensive follow-up by government agencies responsible for providing such aid and services. It should be pointed out that the majority of persons responsible for victimizing the migrant workers tend to be outsiders who are also residents of the county and savvy to the potential for profit through the victimization of these workers. The social implications of such activities contribute to a further deterioration of the quality of life of migrant workers as well as contribute to the rising crime statistics of the cities wherein these workers reside.

Discussion regarding the failure of the federal government to help mitigate the costs of its immigration policies, especially as they pertain to migrant and undocumented workers, has already occurred as a matter of public policy debate. Clearly, the federal government must do more to assist local communities with the amelioration of the costs impacts of federal immigration policies as they pertain to local governments and the requirements for the ongoing provision of public services at the local level. Local governments can no longer afford to shoulder the total costs of an immigration policy which foists the requirements for and the costs of providing these services to persons who would otherwise not qualify.

In closing, I would like to thank you for providing me with this important opportunity to come before you and briefly discuss some

of our concerns. I hope that I have been able, in some small way, to communicate to the members of the Subcommittes some of our concerns and hopes for action for the future with respect to the continuing concerns we all have regarding the costs and impacts of immigration on our local communities.

Mr. CONDIT. Certainly. What we will do, mayor, if it is OK with you, your full statement will be inserted in the record and then maybe, when we go down the line, you will have the opportunity to close with any statements that you have.

Mr. FRONTELLA. I appreciate it.

Mr. CONDIT. We will just go down the line.

Mr. Marshall, the city manager.

**STATEMENT OF JAMES G. MARSHALL, CITY MANAGER,
MERCED, CA**

Mr. MARSHALL. Thank you very much, Mr. Condit. Thank you for being here in Merced today. On behalf of Mayor Lindsey and the members of the Merced City Council, we are really pleased that this committee would take the opportunity to come into our community to take this testimony.

Mr. CONDIT. May I interrupt? Mayor Lindsey has been here all morning and we appreciate you allowing us to use the Chambers and we appreciate your attendance very much this morning.

Mr. MARSHALL. Mayor Lindsey, one of our council members, Don Bergman, and another council member, Mr. Hassett, have been here all morning. Mr. Hassett had to leave and Mr. Bergman is still in the audience with us, also.

My name is Jim Marshall, I am city manager for the city of Merced. And the mayor and council have asked me to take this opportunity with some of the staff members from Merced to put into testimony before you the information that they would like to have you consider.

I think what has been very interesting this morning, if you have listened to the testimony that has come before from Federal, State, and local agencies, is the very complex interaction between not only the layers of government but the different agencies within the same governments. And I think that, when we talk to you from the perspective of cities, it is very difficult for us to put our finger on an exact price and say this is the cost impact of either legal, illegal immigration, or refugee problems in our community because government structure in California is such that the State and counties provide more of those human services than cities do. Cities provide more direct services in the form of law enforcement, and parks and recreation, street maintenance. And so we do not have that same social service cost that we can point to that some of the other entities have.

But in our presentation this afternoon, we will be sharing with you what we anticipate or what we feel are direct impacts of the immigration problems on our police department and our housing department.

I think what I need to do is to share with you a little bit of a background to create the fabric for the rest of the testimony, if you will, regarding what is happening in California right now with respect to the fiscal situation.

I provided for you written testimony that I understand will be included as part of the transcript and, as one of the exhibits in that written testimony, is a sheet that outlines recurring revenue losses facing the city of Merced, which are not unusual for other cities in California either.

We are now faced, in the city of Merced, with an annual loss of about \$1.5 million in general fund revenues that previously came to this community. And that \$1.5 million is either as a result of increased costs that have been mandated upon us or as a result of the reduction in revenues where revenue streams previously flowed into the city of Merced.

Examples of that are that we now have to pay the county for administering the property tax collection and distribution process, we have to pay the county every time we book a suspected prisoner into the county jail facility and that would be certainly a point that I am sure our police chief will address with you in his comments.

We have also, as a result of State legislation, been forced to defer a substantial amount of our property tax revenues to the school districts to fund education in California. And, with the \$2.6 billion deficit currently looming in Sacramento, the Governor's proposed budget is planning to close that loop, if you will, with another transfer of property taxes from local governments to the State of California to fund State services.

The city of Merced's share of that potential loss is going to be about another \$700,000 so we are now looking at a figure approaching \$2.5 million of recurring revenue losses that come into our general fund to fund those services that probably most directly impact the situation of refugees and immigrants in our community.

When you look at our total property tax take right now for the city of Merced, is about \$3 million. It runs about \$7.5 million just to operate our police department. The police department is probably the agency, along with our housing agency, that has the most direct impact with the immigrant and refugee population in this city.

It is becoming more and more difficult to provide those services, not just to the immigrant and refugee population but to every citizen in this community, as a result of the reduced revenue streams that are being provided to local government.

And our concern is that, if anybody is looking to cities to fund either increased immigrant or refugee programs, we don't have the fiscal resources to do that. In the last 3 or 4 years, some I think referred to the State's economy as being in a fiscal drought; I think that is an appropriate way to describe it. And the fiscal drought in our situation has dried up any extra discretionary funds that this community would have to fund programs that might help either immigrants or refugees to assimilate into our existing culture.

We have lost 30½ positions this year out of the city's work force; we will probably be losing more positions next year, especially if the \$700,000 comes home to roost like we certainly anticipate that it will. That will mean a reduction of services probably across the board for every citizen in our community.

Last week we had an opportunity, at the request of your staff, Mr. Condit, to meet with representatives from the Government Accounting Office and to share with them the direct cost of Federal mandates and State mandates on this organization. And that information has been provided to them; it can be provided to you as an attachment to the information that we have already submitted because I think it is important for you to see, and for the committee

to see, the discretionary funds that we are required to use in really a nondiscretionary manner.

When the mandates come down, we are forced to fund those programs and then that takes away the discretion from the city council, the local elected people, to decide how they want to spend their local dollars.

And, with your permission, we will add that into our testimony and provide that to you before you leave.

Thank you again for the opportunity to present this information as background and thank you on behalf of the city council for coming to Merced to hear testimony.

[The prepared statement of Mr. Marshall follows:]

CITY OF MERCED*"Gateway to Yosemite"*

TO: Gary A. Condit, Member of Congress
Chair, Information, Justice, Transportation
and Agricultural Subcommittees

FROM: James G. Marshall, City Manager

SUBJECT: Testimony at Hearing - June 2, 1993

Thank you very much for the opportunity to appear before you today. I am appearing on behalf of and representing Mayor Jim Lindsey and the members of the Merced City Council.

It is difficult for this city to develop specific costs associated with immigration, either legal or illegal. We can, however, provide you with information concerning impacts to public safety through law enforcement; and, to housing requirements.

My intent is to provide you with a brief background of the budgetary constraints that exist at the local level in California. Once you have an opportunity to review our figures, I am sure you will recognize that there are no discretionary funds available from the City's budget to focus on problems of immigration.

Most of the problems facing Merced come from the longer term refugee settlement issues. While some initial monetary support was given to refugees resettled into the Merced area, those funds have long since disappeared. Given the significant cultural differences between the United States and those who have been resettled into Merced, no significant positive impact was made with the small amount of federal funds dedicated to the refugee resettlement program. This city continues to struggle with the longer term issues of education, housing, health, transportation, and the increasing number of gangs that are developing out of the refugee communities.

The City of Merced, like most cities in the United States, operates from a general fund and numerous enterprise funds. The enterprise funds are self-supporting and generally cover those areas of service such as water, sewer, refuse collection,

etc. The general fund is the discretionary pot of dollars available to the City of Merced for providing discretionary services, including: police, fire, street maintenance, parks, and recreation - social services programs. The two single largest sources of income into the City's general fund are property taxes and the City's share of the state's sales tax. Given the recessionary trends in California, the sales tax receipts have been level at best. Property taxes have become a source of revenue to balance the state budget at the expense of those entities directly servicing the properties paying the taxes. It would be prudent to share with you the recent revenue reductions experienced by the City of Merced: (see attached exhibit A)

The budget submitted by Governor Wilson to the State Legislature includes a \$2.6 billion shortfall proposed to be funded from further property tax shifts. If this budget is approved as proposed by the Governor, the City of Merced will lose another \$700,000 from its property tax revenue.

The City Council has approved a reorganization plan submitted by my office which eliminated 30.5 positions from the City payroll. While many of these positions were developed through attrition, nevertheless, 11 employees ended up losing their jobs with the City. If we lose another additional \$700,000, absent the City Council's ability to raise a like amount in new revenue, further employment cuts will need to be made. The City does not have, nor should it have, the ability to budget in the deficit.

The current 1992-93 fiscal year operating budget for the Merced Police Department is approximately \$7 million. The same fiscal year budget for the Fire Department is approximately \$3.6 million. With property tax revenues less than \$3 million, it is easy to see how a further shift of property taxes from this city will cause an erosion of public safety services. While the erosion may not occur as a result of direct cuts in employment, it will occur as the population grows if the City is not able to add additional personnel into public safety services to maintain its current level of service provision.

The City is faced with numerous state and federal mandates which are unfunded. While that is certainly not the focus of this hearing, it is indeed a part of the puzzle that we face in our efforts to present a balanced budget and deliver basic services to our citizens.

Pat Lunney, the Merced Chief of Police, and Lee Pevsner, the City's Director of Housing and Transportation, will present more specific information to you. Thank you for including the City of Merced as part of your hearing process.

SUMMARY OF UNFUNDED MANDATES IN 1993-94 BUDGET			
DEPARTMENT	UNFUNDED MANDATES AMOUNT:		
	STATE	FEDERAL	OTHER LOCAL
Future Planning	99,490		
Fire	275,671	125,436	
Police	329,245		
Public Works Oper. Admin.	5,357	25,000	60,000
Street Maintenance	11,648		2,698
Recreation and Parks	41,033	102,310	
Wastewater System	20,244	28,340	1,543
Wastewater Treatmt. Plant	113,348	69,757	52,328
Environmental Control	126,677	126,056	2,303
Water System	205,433	156,843	14,182
Refuse Collection	7,703	25,000	1,662,500
Street Sweeping	435		
Storm Drains	4,865	3,350	175
Land Application	44,410	43,645	530
Airport	11,000	3,000	
Fleet Management	38,458	28,500	1,658
Redevelopment	652,000	652,000	
TOTAL	<u>1,987,017</u>	<u>1,389,237</u>	<u>1,797,917</u>

NOTE: Specific items may be mandated by more than one level of government.

Mr. CONDIT. Thank you, Jim.
Chief Lunney.

**STATEMENT OF PATRICK N. LUNNEY, CHIEF OF POLICE,
MERCED, CA**

Mr. LUNNEY. Thank you Congressman.

Although it is a little outside of my scope, let me comment just a little bit on the incarceration or what is happening at the local level in terms of booking illegal immigrants into our jail.

What happens is that many of the people, because of the caps placed on the jail population, are released on their OR, own recognizance, as they are booked into our jail. What happens then is, because there is no Federal INS agent at the site to make a judgment of whether they are legal or illegal, those people are turned directly back into the population as would any legal resident of the city.

There is probably, you heard the testimony from Lieutenant Strength, that said there is not many identified in our jail population at that time, which is probably true because, as they come into the system, they are never identified and so they are back out on the streets again.

Many of the people give a.k.a.'s, false names; many of them fail to appear again. And it results in the system just being inefficient in dealing with that particular segment of illegal immigrants that commit crimes.

There was a time a couple of years ago when we worked with Border Patrol out of Fresno to have an agent onsite to make those judgments as people came through. Particularly in misdemeanor cases, what was happening at that point is that they were making a judgment that they were undocumented and they were starting the deportation directly at that point. However, because the funding losses or reprioritization of their funds, that is no longer occurring and so he is right in the assessment that there are probably very few documented in our jails at this time.

So that is sort of what is happening at the local level in terms of incarceration.

Our real impact or how we are going to deal with the population providing police services to the people that are here, whether they are refugees from the resettlement policies or whether they are illegal immigrants, it is my belief that 90 percent of law enforcement is provided by local agencies.

The lion's share of what our thrust is, in this day and age, is trying to do some prevention kinds of things so people are not ending up being booked into jails and incurring those horrendous costs of incarceration.

We have some problems doing that because this is not a homogeneous population we are dealing with any more. And yet, for us to diversify and understand the kinds of situations we are facing, comes at a tremendous cost to the city.

We were the first police department in the State of California, to my knowledge, and I am pretty sure I am correct in this, to hire a Southeast Asian refugee as a police officer. But, in order for us to do that, it required the creation of a special training position, it took several individuals being assessed and rotated through that

system before we found a candidate that could function in the system as we know it today.

Since then, we have added another individual, again at great cost to the city because we funded the posteducation of that subject which, in today's fiscal world, is sort of a dying kind of a situation.

In addition to that, we have hired a Southeast Asian liaison who works directly with the Asian community, or the newly arrived Asian community, in doing the interface with the criminal justice system, which they are not capable of dealing with to a large degree. That includes simple things such as receiving a ticket, that they have no idea what to do once they receive a ticket.

There is the educational kinds of things that are costing us money and resources.

Mike Ford alluded to the accidents that occur; that is very true. They have not been brought up in the environment where driving skills have been developed and, as a result, newly arrived drivers sometimes have difficulty integrating into our system. And if we don't do it, if it doesn't come to the local level, the police level, nobody will do it.

The best way for us to address the fact that they are there and provide the service to them, like I said, whether it is refugee resettlement or legal immigrant, is to do some crime prevention and some education that will prevent them from being victimized or prevent us from being involved with them in the first place.

In order to do that, we have problems; we have language barriers, we have customs barriers, and in lots of cases we have trust barriers. The countries of origin of these individuals often looked upon the police as untrustworthy and, in order for us to develop any kind of relationship that allows us to do the kinds of things that, in the long run, will save money, it costs us money up front. And so we spend a lot of money there.

Just apprehending, once we have a crime occur, if the perpetrator comes from one of the populations that are in minority, it is often difficult for us to apprehend them without significant spending of resources. We do not have the capability or the money to track people outside our jurisdiction usually if they are mobile at all.

If somebody from Central America is up here illegally, the chances of them fleeing to Central America, or at least another location in California, are great and we do not have a lot of money to spend on those kinds of things.

If it is a serious crime, we do; if it is a murder or if it is a serious robbery or rape, then we extend those resources. But all that costs over and above what would normally be associated with the population.

There is an emergence of different types of crimes occurring that we don't have the expertise developed to deal with. Those run the gamut from gambling to financial types of situations to mail fraud types of situations, things that nobody at the Federal, State, or local level are set up to deal with. And so, in order for us to do that, we have to spend extra personnel and extra funds in terms of training.

Of course, the short-term answer is more people, more money, more dollars at the local level. But the long-term answer is more

dollars from somewhere but more dollars devoted to such things as crime prevention programs, to youth intervention programs.

It was pointed out by the Sheriff's Office that they are experiencing problems with the Southeast Asian gangs, youth gangs. We are experiencing the same things. In fact, the murder he was referring to, the second one, occurred in the city of Merced. We need funding to set up specific units to deal with specific identified problems which are highly correlated to these groups in question.

And I think the bottom line to all this is an appropriate education program which the funding needs to come from.

[The prepared statement of Mr. Lunney follows:]

CITY OF MERCED
INTER-OFFICE MEMORANDUM

TO: Jim Marshall, City Manager Date: 05/18/93
FROM: Patrick N. Lunney, Chief of Police
SUBJECT: LEGAL AND ILLEGAL IMMIGRATION

The overall impact of legal and illegal immigration into the City of Merced has profound impacts on police service. These impacts range from the number of personnel we need to deploy to handle calls for service to the training we give personnel to understand the situations they confront. The following focus questions should provide information as called for by Congressman Condit as related to police service.

..What cost impacts does federal immigration policy have on local communities and states?

The cost to provide police services to Southeast Asian immigration into the City of Merced is clear in some instances and difficult to assess in others. Direct costs in terms of personnel include one community aide position. This position deals almost exclusively with the Southeast Asian population in Merced and provides a liaison between that community and the criminal justice system. Another cost in terms of personnel is extrapolated from the increase in population and the number of personnel per capita the City employs to service its citizens.

If you assume a Southeast Asian population of approximately 14% in the City, thus it is reasonable to assume that population consumes 14% of the total police resources. This in fact is probably a low number, as this particular population requires services and resources not previously accounted for. Included in this additional resource allocation are such items as interpreters, training, recruitment costs to hire Southeast Asian officers and educational costs to educate this population which enable them to function in this environment. We have also seen the emergence of certain criminal activity relating to youth violence and certain controlled substances which did not previously exist and now consumes a greater portion of police resources.

..What cost impacts does illegal immigration have on local communities and state?

These costs are a little more difficult to assess for two reasons. The first relates to determining the number of illegal immigrants consuming police resources. The second reason relates to the fact that this population, particularly the Hispanic element, has been in the City for a long period of time. Their presence has to a great degree been

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assimilated into daily operations and the specific impact largely mitigated.

We have hired a police community aide to deal mostly with this population and some additional interpretation costs are associated with language barriers. Also since this population has been in existence for a long period of time they have established their own set of social and business enterprises. Some of those businesses, such as local bars and taverns that have mostly illegal clientele require police service, but not in a greater proportion than any other such establishment. The cost of police services to illegal immigrants is nearly in proportion to their representation in the population.

..What benefits do cities, counties and states provide for refugees, those granted amnesty and undocumented residents.

The police department provides the full range of services provided all citizens to each of these groups. The cost of delivery of these services is higher to each of the above described groups because of language barriers. If no one is available to translate, we have to call a private commercial provider which is accessed via telephone. The city bears the cost of the long distance call as well as the cost of the translator.

In addition to the police services we provide educational and training classes to these groups on an on-going basis. Included in these classes are basic law of our country, how to access and use the criminal justice system and certain skill classes such as driving.

As previously mentioned, we have employed at the police department two community aides whose primary responsibilities include these groups. The services they provide extend past the traditional police service to include many civil problems. Family counselling and daily living situations that are presenting problems for newly arrived persons are routinely addressed when our community aides interact with persons seeking their assistance.

Patrick N. Lunney
Chief of Police

jkp

Mr. CONDIT. Thank you, chief.
Mr. Pevsner.

STATEMENT OF LEE PEVSNER, DIRECTOR, HOUSING AND TRANSPORTATION, MERCED, CA

Mr. PEVSNER. Well, obviously we are talking about impacts and I think that the Federal Government needs to fairly take a look at the situation and all of its wide ramifications. This problem is broader than the INS. We talk about Southeast Asian refugees, for example, the targeted assistance funding comes from the Office of Refugee Resettlement in the Health and Human Services Department. I am going to be talking about housing; that is from the Department of Housing and Urban Development.

I think when we go about solving problems, we cannot be unidimensional in our focus. We need to fairly assess, if we are allowing the admittance of Southeast Asian refugees into our country, what are the full range of activities and support that this person is going to need, and over what length of time.

ORR has been grossly inadequate in its estimation of what Southeast Asian refugees need and I do not want to go through that history but the language skills that they brought to this country, the educational skills they brought to this country, to expect them to be employable in a short length of time is totally irrational.

As Mr. Cullen said, 85 percent of the Southeast Asian refugees in this county are on public assistance. Merced is probably the most heavily per-capita impacted city in the Nation with regard to refugees, probably 10,000 people in our city, or 16 percent of our population are Southeast Asian refugees.

When you look at the economics, and I am a capitalist, it does not work out. If somebody is on welfare, they do not have the money to participate in the free market system to buy the goods and services that they require. One of these is housing.

When I talk, and I go out and I give speeches about housing, the first thing I say is that housing is a secondary problem created by lack of sufficient jobs and income. We would solve all the problems long term that we are discussing here if everybody had a good job. That, short term, is impossible. So what is the fix? What is the answer?

Somebody, and obviously we are suggesting it is the Federal Government, needs to fairly evaluate the impacts and come in to provide the resources to deal with those impacts.

For example, I am saying specifically, when it comes to the Southeast Asian refugee family whose size does not fit the housing stock of Merced and income does not fit the available rental resources—we are not talking homeowners here, we are talking renters—there needs to be something to bridge that gap to make the economic system whole.

The Federal Government has a wonderful program in existence, the section 8 rent subsidy program. We do not have enough section 8 vouchers. If somebody could fairly look at the number of Southeast Asian refugees we have, and that impact, and would infuse a number of section 8 vouchers to compensate for that, that would go a long way toward solving our housing problems.

That would make the creation of housing more realistic because the market system would take care of that, people would build housing to fit the population because there is a revenue source to take care of that. People would not be burdened unnecessarily because, in the section 8 program, they would have affordable housing by virtue of the fact they would have to spend no more than 30 percent of their income for rental, which the Federal Government has defined as affordable, 30 percent of your income.

We have, and I cannot tell you the number of, farmworkers in our community. They make a serious impact on, I want to say housing but the facilities that many of them utilize, you would not classify as housing. Within 5 minutes, I could take and show you sheds in backyards and tin sheds and all kinds of structures that were not meant to house people, housing people; and the going rate is about \$50 a head.

Because a lot of farmworkers come up from Mexico, I don't know their immigrant status, whether they are legal or illegal, I know that what they need is a specialized kind of housing that we cannot develop. They want cheap housing, they want sort of dormitory style facilities that they do not have to pay much money for so they can send the bulk of their money back to their families in Mexico.

If there was specialized funding, again the Federal Government fairly assessing the impact of any particular community and saying, well how many farmworkers are there in the community who do not have adequate housing, and providing the resources to build the adequate and specialized kinds of housing that is needed for farmworkers, that would help.

Where are you going to get the money? I cannot tell you. I mean, Congressman Condit, you were talking about it dribbling down hill; well, we are trying to put it back up to the top and have it dribble down again. But I think, if you take a look at different communities, you will see that the impacts are different.

In my experience in going to Washington a couple of times about 3 or 4 years ago, is that it is a highly political process that, I will say Senator since you are in the House of Representatives, who control the process and who funnel the money to States where they happen to represent but it is not in sync with where the refugees and where the people who needed the resources live.

So obviously this is not an issue with which you are unfamiliar.

Thank you very much for allowing me to—

Mr. CONDIT. If I could, maybe I could just go out of order for just a second.

You touched on the point about the refugees, and I probably should have addressed this to Mr. Cullen, but the Federal Government did fund, when refugees started moving in here, at a certain level and the commitment was for a period of time.

Has it been your experience and are you knowledgeable, or maybe anyone sitting on the panel, that they have sustained that level of funding for those programs or have they phased them down?

Mr. PEVSNER. The original period of time under which the Federal Government provided 100 percent, in quotes, of the welfare support was 36 months. The idea was, in 36 months, the people

could be independent of the welfare system. That was not in touch with reality.

Since that time, ORR has increasingly cut back on the amount of time in which there would be 100 percent Federal participation. I think it is down to 4 months. So, to me, nobody was trying to really figure out what was going on, the Feds were trying to bail from their responsibilities. It cost money.

Mr. CONDIT. And they had already anticipated what it takes to get people back into the mainstream of the community and then they scaled it back to 4 months; and you are suggesting, and rightly so, that was just a way of them getting out of funding the program that they had generated for the community.

Mr. PEVSNER. Right. The Southeast Asians who are here in Merced, they are here because of the Federal immigration policy. In 1980, if you look at our census figures, there were zero Laotians here; now there are 10,000–12,000.

Mr. CONDIT. I have started something here by interrupting the testimony. Mr. Peterson wants to ask you a question on section 8 housing.

Mr. PETERSON. I was just wondering. My Government Operations subcommittee has jurisdiction over HUD and I have been looking at some of this stuff at home. You are talking about wanting an extra section 8. Are you talking rental assistance or vouchers?

Mr. PEVSNER. I am talking about vouchers.

Mr. PETERSON. Vouchers that you take anywhere.

Mr. PEVSNER. Right.

Mr. PETERSON. And the State has a certain allocation within the State; is that how it is? Or is it nationwide?

See, the rental assistance is zeroed into so much per housing authority or county or something like that?

Mr. PEVSNER. Yes. Our local point of impact or interface here is the county housing authority. They get their allocation through an application that they submit to region IX in San Francisco.

Mr. PETERSON. And they have a certain amount of rental assistance and that has to stay within the county. So that, if a person moves out of the county, they lose the rental assistance or the rental assistance stays with the county. But, if it is a voucher, the person gets a voucher out of your area and they move to Los Angeles, they are going to take that voucher with them to Los Angeles; right?

And that is the difference in the two programs, as I understand it. And the State gets mucked up in there, too, in how they allocate it, from what I have heard.

Mr. PEVSNER. Certainly, we would be interested in—I am not aware of the technical difference between the voucher and I think it is called a certificate, and its transportability.

With the new HOME program, for example, they allow you to provide tenant-based rental assistance, in essence, section 8 type subsidy through a different pot of Federal money, and they have allowed the restriction of that subsidy to stay within your jurisdiction, so it cannot be transportable.

I think the likelihood is that, if you provide a voucher to somebody, a Southeast Asian refugee in Merced County, or in the city of Merced, they are going to stay within Merced County, which I

think is OK with us. I mean, if there is a house available in Atwater and they want to move to Atwater, that is OK as long as they have decent, safe, and affordable housing. I would say we would like to see that voucher restricted to Merced County because that is where the major impacts are going to continue to exist.

Mr. PETERSON. I don't know how far we should go into this, but we have caused a problem in the way we have developed this program and we set up, to some extent, artificial barriers that cause us more problems.

And, if you lock all this stuff in, that is not going to work either. So I was just wondering what—I guess you are not the housing authority director?

Mr. PEVSNER. Not the housing authority.

As long as the impacts are fairly examined often enough to keep the subsidy in balance with the people that need the subsidy, then it should work even if the section 8 voucher is totally transportable within the United States.

Mr. PETERSON. We have a big Hmong population in St. Paul. I was surprised to hear you say that you have 60 percent population because I was told we had the most of any place in the country. I do not represent St. Paul so I don't know if that is really true or not.

I can relate to the problems you are talking about, because the folks from St. Paul come and talk to me about the same kind of problems, that the Hmong do not have a written language is a real tough situation for them to try to deal with, all the same kind of problems you are having.

Mr. PEVSNER. I tried to make my testimony very dramatic but Mr. DeLong, when he tells you the statistics, you are really going to be traumatized.

[The prepared statement of Mr. Pevsner follows:]

CITY OF MERCED

"Gateway to Yosemite"



To: Congressman Gary A. Condit
From: Lee Pevsner, City of Merced Housing and Transportation Director
Subject: Testimony at subcommittee hearing in Merced, California on June 2, 1993.

Following is the text of the remarks that I plan to make before the subcommittee.

The unemployment rate in Merced is currently 20%. The number of persons on welfare is near 25%. The 1990 census indicates that 43% of the housing units in South Merced, where most of the people with lower incomes live, are overcrowded.

16%, or 10,000 of the city of Merced's population are Southeast Asian immigrants. The average size of a Southeast Asian household is probably six, with eight to ten members being common.

The number of farmworkers in our community is unknown, as is their immigration status. But their housing conditions are far from adequate. There are numerous structures which are not habitable, and are currently being rented to farmworkers. These include sheds, garages, travel trailers, and attics of existing dwelling units. Last year we found twenty five people living in a three bedroom house. The going rental rate is \$50 per person per month.

We have a population of immigrants (Southeast Asian) whose family size and monetary resources are out of sync with the housing resources in Merced. A large part of the housing problem could be solved if there were more Section 8 vouchers available. The current waiting list contains over 1500 names.

Congressman Gary A. Condit
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While we receive CDBG funds that are used for housing, and recently were successful in obtaining a grant for HOME funds. These funds do not adequately address the housing problems created by the Southeast Asian immigrants and farmworkers. Their concentration in a city our size makes special measures necessary.

It was Federal immigration policy which allowed the Southeast Asians to enter this country. They chose to reside in Merced. Most do not have the language, or job skills to earn enough money to support themselves in a free market economy. This coupled with the special economic problems of Merced and California leaves a burden on the locality in a number of areas for which it is unprepared.

Farmworkers, both legal and illegal in their immigration status come to Merced. We do not have the resources to house farmworkers in our community. The incentive for the agricultural operations which used to house them has disappeared. There are no houses in the middle of the fields, so where do they come?

What is the solution?

A recognition by the Federal government that some communities are burdened more than others in the area of housing as it relates to immigrants. For those communities with these special needs, there should be many more Section 8 vouchers. If we had sufficient Section 8 vouchers for every Southeast Asian family in Merced, the housing problems for them would be solved, because there would be the rent supports in the market to create the housing that is needed.

Farmworkers with families could also benefit from the Section 8 program. Many farmworkers though are males without their families who come here to work, and send as much money as they can back to Mexico to support their families there. These people need specialized housing. The Federal government could provide funds to targeted, impacted communities to develop specialized farmworker housing.

Unfortunately there is no magic. The answer as it usually is, means that more money needs to be spent in order to solve the problems.

I appreciate the opportunity to provide information about our needs in Merced.

Mr. CONDIT. Well, why don't we get to Mr. DeLong and then we will come back.

**STATEMENT OF DONALD V. DeLONG, SUPERINTENDENT,
MERCED CITY SCHOOL DISTRICT, MERCED, CA**

Mr. DeLONG. Well, I was thinking, as an educator, probably the worst thing to do was talk at you, so I wish I had brought some visual aids.

But let me first say that our board of education, we represent the largest school district in Merced County and our board has been very concerned and we thank Congressman Condit for his help and Ron Cortez, who is a member of our board, thought he could be here but he was unable to stay. But he does appreciate the time and the effort.

The statistics, I think you are probably up to here with statistics. I think you need to realize, as far as our school district is concerned, let me just give you a little background.

We serve only in the K-8 population; there is another separate high school district. I am only going to speak for kindergarten through eighth grade. And, in 1980, we had about 648 students who had a second language. We currently have 4,561 students that have a second language and, of that, probably 25 percent represent Southeast Asian, which is a dramatic increase for us.

Like the chief said, we do have one fully credentialed, the only one in the State of California, Hmong-certified teacher; but we need many, many more. And Mr. Tiffee, when he spoke in terms of the county schools, went through all the statistics.

I guess really what I wanted to zero in on, and part of this is a catharsis, I have to tell you I am not sure you can do anything about this. But it is good to at least share our concerns.

And, in education, as Mr. Tiffee pointed out earlier, our job is to serve the kids wherever they come from. And I think what you need to realize is that our parents, our Southeast Asian parents, our Hispanic parents, are equally concerned about what is happening to their children. We see this over and over again.

I think the conflict with our Southeast Asian community especially is that there really is a split culture here in the sense that the parents often do not understand the culture that we live in, but many of their children are crossing those lines between the culture of the old country and the culture of our area in Merced. And what happens is that the parent is lost in the shuffle.

And we have kids that are becoming Americanized and we can really define that definition for the good and for the bad. And then you have a conflict within the family unit itself, especially within the Southeast Asian community; and that is where we are seeing frustration, that is where we also believe the whole issue of gangs are coming because what is happening is that the family itself cannot provide that same type of support because of the lack of understanding of the culture. There is conflict among the parents and the children as to what is expected within the culture that they are now living in.

So oftentimes we see, very early unfortunately, the children turning to another support group, which oftentimes is a gang, which

provides a very nice support group. Unfortunately, all of their objectives are counter to our culture but it is a support group.

The point, though, that I want to make, and we have written testimony that is for the record, is that these parents are just as concerned. They are frustrated. We are frustrated. And I said to myself I will not bring money up, so I brought it up once and I am not going to say any more.

But we are all frustrated. And I think it is something that we have to, together—now one of the things at the State initiative, is healthy start, which is something we are involved in, which is to bring the social services health support actually to the school setting and provide parent education.

We just recently had our first annual districtwide parent education program and over 100 parents were Southeast Asian. They are very, very concerned.

Our problem is that this has come so quickly for us to assimilate all these different changes culturally, linguistically, all kinds of things, that we are playing catchup here.

But the main point I want to stress is that these parents are equally as concerned as any other parents that we work with and I don't know if it is a reexamination of the immigration policy or where the solution is, but these are parents that are asking for help.

My final point is, I believe all of our society is in turmoil and so, while we have this immigration problem, we have major problems occurring just in general society. I truly believe that our schools are just a mirror of what is going on out there and people are frustrated all over the place. Then you overlay on immigration, different cultures.

So I look to our elected officials at the State and Federal level to help us guide through this very difficult situation. The commitment we make locally is that we have formed many partnerships involving sharing of funds and I guess another issue is, give us more local flexibility because I think people closest to where the action is understand how to solve these problems. But I cannot tell you how many regulations that we have to deal with that have absolutely no help to the problem.

So, in summary, we are concerned. We believe these parents are equally concerned to provide the best for their children. We are doing the best that we can, we're trying to set up local collaborations and, where possible, healthy-start kinds of initiatives. And we would appreciate any help and support during this process.

I know it is frustrating for you, it is frustrating for us, but at least you hear how we feel and maybe something can be done.

[The prepared statement of Mr. DeLong follows:]

Merced City School District

444 West 23rd St., Merced, CA 95340

Superintendent: Donald V. De Long, Ed. D.
Board of Education: Della George, President, Justin Brink, Clerk, Ram Comas, Kathryn Hansen, Lao Hernandez

Phone (209) 385-6670
FAX (209) 385-6746



Diversity our strength
Children our promise

May 25, 1993

Honorable Gary Condit, Chairman
Longworth House Office Building
Room 1123
Washington, D.C. 20515

TESTIMONY FOR THE HOUSE SUBCOMMITTEE ON INFORMATION, JUSTICE, TRANSPORTATION AND AGRICULTURE

In the recent California Tomorrow publication, "Crossing the Schoolhouse Border", come the following statements:

"...California is changing. A rainbow of faces, a multitude of languages fill the classrooms of California's public schools, providing a preview of our future society - a preview not to be ignored. The historically rich diversity of the state's population is only becoming more so - largely due to immigration. About 5.3 million Californians - 20% of the state's population - are foreign born. The past decade has seen the largest migration ever to the state, primarily from Asia and Latin America...."

Laurie Olsen, Project Director of California Tomorrow, reminds us that while California's changing face is visible in the workplaces, streets and communities of the state, nowhere is California's changed population more prevalent than in the public schools - and nowhere is the need to acknowledge the changes more critical.

Children come to school today with different religions, different cultures, and different languages. Unfortunately, new immigrants also often come from low income/poverty backgrounds. Imagine being a five-year-old wearing an oversized dress, worn out shoes, having a hair cut that is "different," speaking no English, and being in a room full of students and an adult you do not understand. Every day in California this happens to thousands of students. Their parents cannot prepare them for the experience because they, too, are unaware of what schools have to offer.

One of the greatest challenges in education today is how to overcome the barriers of poverty, limited English proficiency, and differences in cultures to work with families toward the goal of having their students succeed in school, as well as becoming productive members of society.

While the state of California has seen an increase in the number of immigrant families over the past decade, Merced County has experienced a dramatic increase. Current census data identify Merced as the seventh most ethnically diverse community in America, with one of the largest per capita refugee populations in the United States. Merced has the third highest poverty rate in California (19.9%) with the rate for minority group members twice that of the Anglo population. A total of 29.7% of children live in poverty.

In 1980 there were 648 limited English speaking students in our schools. In 1993 that number had grown to 4,561. The predominant language in 1980 was Spanish. In 1993 only 14% of Limited English Proficient (LEP) students speak Spanish while 20% speak Hmong, 2% speak Lao, and 3% Mien.

Seven of eleven elementary schools have more than 75% of their student population receiving AFDC. The remaining four are nearly there.

This change in demographics in a relatively short period of time has presented an unparalleled challenge to educators in Merced City School District. Training sessions were immediately provided as early as 1982 to help teachers learn appropriate teaching strategies to use with our new arrivals from Laos as well as to give them background information in their culture. Merced County Office of Education has now become a state designated training program site for the LDS credential. We have designated Title VII monies to be used to pay for training our teachers. Our Coordinator of Bilingual Services is not only an instructor in that program, but also provides coaching sessions for staff as they prepare to take their exams. As a result of the classes and the dedication of our teachers, we have 288 classroom teachers who have taken the methodology and/or culture classes. This represents approximately 59% of our total teaching staff. Seventy-seven of those have obtained their LDS certificate, one has obtained a Bilingual Certificate of Competence in Hmong, and thirty have obtained their BCC in Spanish. We are very proud of their efforts and are confident that once the others have the language requirement fulfilled, we will have many more fully qualified personnel to meet the needs of our LEP students. However, we cannot do it alone and we need your help.

Dr. De Long, our Superintendent, will share with you the current programs we have, as well as our needs for the future.

SIP/CH /EIA-SCE/EIA-LEP

Currently, Merced City School District receives supplementary state and federal funding from School Improvement Program, Economic Impact Aid, and federal funds from Chapter I. These monies are used for a variety of services including instructional aides and other personnel, materials, supplies, consultants, staff development, and parent education/involvement. We also receive \$35,784.00 in Emergency Immigrant Education funds. Monies received from this program are used to pay for our Southeast Asian Community Coordinator who works as a liaison with parents.

TITLE VII

Currently, Merced City School District is receiving money from two federally funded Title VII programs. The money from Title VII goes specifically to provide assistance to Limited English Proficient students. The funding on one of our grants concludes with the 1992-1993 school year. The other grant will conclude with the 1993-94 school year. Merced City also receives services from Migrant Education which is directed by Merced County Office of Education. Migrant services are delivered through aides who provide tutoring in class and/or pull-out in the areas of math, reading, and language.

While this funding seems like a great deal of assistance, in reality, it is not. There is so much to be done. We desperately need more Community Liaisons who speak Hmong, Mien, Lao, and Spanish to work with parents on the many problems/concerns they have.

We need money to lower class size. While teachers do a commendable job, how much more attention could they give to students if their classes were 25 or 26 rather than 32 to 34?

Implication/Needs

Meeting the needs of a rapidly growing district has been costly, both in local and state dollars. We have added over 100 portable classrooms on our campuses over the last 12 years. We have built three elementary schools, and are currently building a middle school. In addition, seven of our eleven elementary schools have adopted a year-round calendar in an effort to house 25% more students than they could on a traditional schedule.

Training for teachers has been a costly and continuing project. Communication with families requires translating all newsletters and announcements in four languages. All parent information meetings are also held in four languages. Again, this is a costly venture. Our Southeast Asian Community Coordinator has a nearly impossible task trying to keep the lines of communication open with our Southeast Asian parents. We need more people whose full-time job is working as community liaisons. That communication with parents is crucial to the success of our programs.

Society is in trouble. The evidence screams out at you each day as you pick up a newspaper. Drug abuse and crime are rampant. As schools are a microcosm of society, we are charged with trying to teach academic skills to children who are the products of dysfunctional families from society. We are faced with the problems of mental and physical abuse, drug abuse, and all the attendant problems of poverty. We are not trained to meet these needs. We need help!

Schools, in concert with other agencies, should become the safe havens for families to come for help in meeting their basic needs. Recently two of our schools spent many hours writing competitive grants for Healthy Start and were successful in receiving funding. Each developed an integrated, cohesive program for access to local health and human services agencies on their school sites. These schools and the agencies with whom they are working are to be commended for their hard work and foresight. But, in the future, bureaucratic red tape and jurisdictional boundaries must be eliminated and funds must be appropriated so that all schools may serve as community centers.

Children must become a priority. They must be provided with appropriate health care from the time of conception throughout their lives. We must form a partnership with parents early in students lives to provide access to books and rich cultural experiences.

At a recent parent workshop, the sessions on gangs were filled to capacity. Parents are scared. They see their children drifting with no opportunities for leisure time activities. Many immigrant families are watching helplessly as their children become "Americanized", wanting everything they see society has to offer; designer jeans, cars, Nintendos, to name a few. Parents, who are still steeped in their old culture and often on government assistance, are not able to offer these symbols of America. Their children find gangs who will allow them both companionship and quick money. We absolutely must work with community leaders to secure funding for youth centers where fun, healthy activities can take place.

In this time of staggering unemployment, dysfunctional families, and the increase of gang activity, we must make decisions to appropriate monies to save our future.

Lowell C. Rose, executive director, Phi Delta Kappa, sums it up succinctly. "I simply cannot believe that the richest nation on earth will damage itself by failing to invest in its most precious resource - it's children."

Mr. CONDIT. OK, Mayor Frontella, did you want to make any closing remarks?

Mr. FRONTELLA. I would close with this: You have heard the group that is here, I think they present themselves very firmly. Likewise, all cities in this county are having a problem and it is something we must deal with and something we have to learn to deal with effectively.

So we would ask for your help where we can get it. We cannot do it on the basis of what we have to deal with so we need your assistance in this matter as well as anybody.

Mr. CONDIT. Mr. Peterson may have some followup questions. I just want to ask one question.

You have all done a very good job with your testimonies and we have all heard the questions this morning and I do not want to duplicate those. But if there was one thing that you could ask the Federal Government to do, and be specific if you can, after listening to what you have heard this morning, what would it be that we should be doing to assist you?

I don't know if Mr. DeLong can make his one specific one but, if you can, tell me what it would be.

And, Jim, I will start with you.

Mr. MARSHALL. I think that local government in California, we have the capacity to help provide the service that is needed to solve the problem. We have the physical capacity. We don't have the financial capacity to support that.

But if the problem is generated as a result of some Federal policy, it has to be funded.

Mr. CONDIT. OK. Chief.

Mr. LUNNEY. I would say the same thing.

Mr. CONDIT. Lee.

Mr. PEVSNER. Ditto.

Mr. DELONG. I think it needs to be in a block grant, not so narrow in its scope in terms of all these restrictions. I think the idea of block grant and letting local agencies work out strategies as opposed to having all of the initiatives already set at Washington by the time it gets—

Mr. CONDIT. Your point is, and you guys did it right on cue, is that, if you mandate something, you pay for it.

Your point is that, before you mandate it, you might want to see if you could be flexible so you could be more efficient or more productive on the local level, which is, I think, an excellent point, as well.

Mayor, do you have a point?

Mr. FRONTELLA. No, thank you.

Mr. CONDIT. Mr. Peterson, do you have anything?

Mr. PETERSON. You know, I could be sitting at home and I would hear the same thing.

I was out at the housing authority, in my local town of 7,000 people and they received these regulations where they literally are going to have to hire one more person to fill out all these forms that are completely ridiculous and have no bearing on anything that is going on in our town, but they were put on because of some problem in the Philadelphia Housing Authority or whatever.

But I think we are just as frustrated as you are. We understand that we need to do this, that we need to eliminate this Federal bureaucracy and turn it back to you folks, but I literally don't know how to do it. I mean, there is nobody in Washington that I have been able to find, or I think Gary, that we can talk to about this. I mean, everybody is protecting their turf, everybody is running their programs.

If you go in and try to identify the problems, they lay on another layer of bureaucracy and send out another level of regulations and make it worse, not better. I don't know how we cut through this and untangle this mess that we've made because it is not working. We are spending all this money and it is not accomplishing anything.

We have this big Hmong population in St. Paul. I had a former County Commissioner in my office talking about their gang problems. They said we cannot deal with the housing regulations and these other regulations, we want you to make a special deal for St. Paul to give us a waiver of all these regulations so that we can use this money to deal with this problem in the schools. These are the same problems we are having in Minnesota, which is kind of interesting.

But how we start untangling this, I don't know. A good idea is to make them—if they have to fund it, then maybe they are not going to be so quick to lay on these regulations. But that is not the total solution either.

Mr. FRONTELLA. It is not new to this area, certainly, and it is something that we all have to deal with, but what has been happening is not working and we have got to deal with it.

Mr. PETERSON. It is not working in my area either.

Mr. FRONTELLA. When it comes back to us to deal with, we have to deal with it on the basis that we can.

Mr. CONDIT. Thank you gentlemen very much. We appreciate you being here today.

We will take the next panel. Ms. Helen Torrez, who is the Hispanic Chamber of Commerce representative; Gloria Sandoval, who is representing the Equal Rights Conference; Mr. Vang, Lao Family; Mr. Moua; Mr. Lee; and Mr. Peter Vang.

We would like to thank you all for your patience. It has been a long morning and afternoon and we appreciate so much your being here, your participation is extremely important to our gathering of information and so feel free to read your statements, paraphrase your statements, and whatever you want in the record, we will be more than happy to place in the record.

So we will begin with you and then we will go down the panel just like we have with the other panels.

STATEMENT OF HELENA TORREZ, PRESIDENT, HISPANIC CHAMBER OF COMMERCE

Ms. TORREZ. Congressmen Condit and Peterson, sitting throughout the last few hours listening to what has been happening, there has been a lot of information given from what I term management and now it is the lay person's turn to speak out.

I will start out with the criminal justice system that was referred to this morning. It is very evident that there is an influx of immi-

grants from other countries into, and I will stay with California here, coming from the borders of Mexico and from Texas, also.

I would like to ask that, if you take one thing back with you, please take back the fact that referring to an immigrant as a criminal or an alien or any other referral to a resident coming from another country is disturbing. That word, I don't know where it came from; I am sure I could research back. But it is very disturbing. And, if anything, please cross it out of your policies, procedures, whatever may be occurring.

Mr. CONDIT. Well, we will certainly take note of that. There was no reference meant to referring anyone here legally as a criminal.

When they were making reference to criminal aliens, I believe they were referring to people who had been convicted of felonies. And I believe that to be correct; is that so?

But we appreciate your comment.

Ms. TORREZ. And going on with that, those individuals who cross the border into California, there are walls put up, there are barriers put up; we could have the Great Wall of China between countries, people will still cross over. They will find a way to cross over.

My belief in that crossing over, and I am one of these generations of people that has crossed over, that the United States has something to offer for us people and it is very important to educate and to better the lives of the future children of these people coming through. And we will do anything possible to better that.

And unfortunately, in the process, there are those that commit crimes; this is where the criminal system comes in. There are those that just don't fit into the system because of their culture. The patience has to be there for these culture shocks of these individuals coming through.

I will go on from there; I don't want to take up too much time here.

The other point that I want to make is that, once these individuals are here, because Merced County is very agriculturally oriented, most of these individuals start out with farm labor jobs out in the fields. The employers need cheap labor and this is a form of getting the cheap labor to come through, it is an enticement to come into California to work the fields, et cetera.

Keep in mind that, when these individuals work in the fields, they get paid, they do pay taxes whenever they go to the grocery store or to buy clothing, et cetera. So this money is partially going back into the system again.

These figures that have been given out this morning and early this afternoon about there is so much money that has to be spent and we don't have enough money, this and that, yes, that is true, but a lot of that money should not be attributed, in my opinion, to the fact that we have so many residents coming through. I will touch on that later; I had better not go into that.

Another area I want to talk about is the services, once the people are here obtaining services to go through the legal system of getting their paperwork processed properly. There are so many agencies who are charging erroneous fees, the fees are not flat fees, they are not appropriate, there is a misuse of the system and how it is being handled.

Many of the agencies do provide English as a second language, vocational training skills, et cetera, for the individuals to better themselves. And it does work, it really does.

The housing that I referred to in my statement here, I live in an unincorporated community in Merced County. The population doubles during the summertime because of the farmworkers coming through. It is surprising where individuals will sleep, just to come here to work so that they can save up on their money to send home. Housing is very critical in Merced County.

I have been on some housing task forces in Merced County. There is a problem. The section 8 that was referred to earlier, and perhaps getting that into Merced County, is great and that would work properly.

The problem that you might run into is the developers that would say, well, why should I build any low-income housing when I can build higher-income housing and get more money off of it. So, again, back to the economy and how this impacts and why the problems that we are having with targeting just a particular group.

And lastly, before I sit down, the medical costs associated with the residents coming through here, the figures that were given, I feel, are underestimated. For instance, those individuals who come through MCMC are individuals who come through as a last resort. These individuals will find other ways to cure themselves before coming to, say for instance, an emergency room. There are many, many more people out there that need the services but are afraid to come through and obtain these services for fear of deportation and for fear of any other animosity that may be against them. The paperwork is astronomical for them, again, back to the culture change.

I had better stop there.

[The prepared statement of Ms. Torrez follows:]

Hispanic Chamber of Commerce

Merced City and County

June 1, 1993

Congress of the United States
 House of Representatives
 c/o Shannon Lahey
 B-349 C Rayburn House Office Building
 Washington, D.C. 20515

Dear Ms. Lahey:

The need to provide assistance to local and state governments with legal and illegal immigration is an important issue. It is difficult to summarize the problems associated with this topic. However, the following is an attempt.

The most evident when discussing this topic are costs involved in charging for services. Within Merced County alone, there are no two agencies which charge the same fees for completing INS forms. Those individuals wishing these services are at the mercy of any one of the agencies. Many of the agencies not only abuse the costs associated, but also the time element involved in the processes. What would take five minutes to complete a form, may take up to one week. The individual(s) are asked many times to give up valuable work hours to make many appointments. This process may take many years to complete. There are agencies available who provide free training on English as a Second Language, GED classes, Civic and Vocational as a Second Language classes, translations, and preparation of packaged forms for final submission.

The cities, counties, and state provide benefits for undocumented persons, however these people do not have any grant or assistance to help them to complete their paperwork. Most of the time they are afraid of receiving any kind of assistance due to the misbelief that they will not be able to "fix" papers for their families they have left behind. Assistance may include AFDC, food stamps, medical assistance, and unemployment benefits. Illegal residents stay away from possible problems because they are afraid of deportation.

The Federal government does have a responsibility to pay for the cost incurred by state and local governments to incarcerate criminal aliens as the crimes occur within the United States. If the Federal government cannot pay for these costs, an alternative would be deportation at the costs of the last employer. This would in turn hurt the local government as the employer would increase his prices to compensate for the additional costs incurred.

Housing is another area crucial with illegal aliens involving costs. Many of these people are afraid to speak out against discrimination, abuse, etc. for fear of deportation. In unincorporated communities within Merced County, a chicken coup type shelter could be rented out for as little as \$75.00 a week per person, accomodating as many as 20 individuals in an area 20 x 20. Transportation to work is also an additional cost to these people due to the fact they have no vehicles. Again they are taken advantage of and cannot speak out against it. Eating can become a problem for many due to no kitchen facilities available. Census figures do not reflect true count of all residents within the County, again due to fear of being acknowledged and deported back to their native country.

Medical costs are a definite impact on local and state government. Many legal and illegal aliens do not have medical treatment for injuries for fear of deportation or trust of the system. However, emergencies do occur and this is when the costs are passed down to the local residents. Proper immunization cannot be provided to children of these residents and as a result the neverending cycle continues.

If this subcommittee hearing can indeed impact legislation additional assistance and reformation of the existing system to benefit all those involved must occur. Currently, much mistrust is associated with immigration issues, and rightly so.

Yours truly,

Helena Torrez
Helena Torrez
President '93

Mr. CONDIT. You take as much time as you need. If you like, what we will do, if you want to come back, we will go down the line and then we will come back because I do have some questions for you.

Ms. TORREZ. OK, that is good.

Mr. CONDIT. If you will just have a seat and we will take Gloria Sandoval.

STATEMENT OF GLORIA M. SANDOVAL, VOLUNTEER, CENTRAL VALLEY EQUAL RIGHTS CONGRESS

Ms. SANDOVAL. Thank you Congressman Condit and I am pleased to meet the Congressman from Minnesota also, Mr. Peterson.

I did write up a 6-page testimony here but I also have some comments regarding this morning's comments.

I really feel that it is an unfair position to take the present isolated figures when it comes to costs of these different services, even corrections or housing or whatever. To me, it seems unfair that we don't also provide the entire figures to our population. I don't think the regular person on the street really is familiar with where our taxes are going or what is the cost of different things.

As a matter of fact, the \$22,000 cost of corrections is really for the pay for the guards and administration and overhead. There seems to be, I think, a misunderstanding that maybe the cost is due to the undocumented person.

And I guess the other thing that I kind of feel I need to comment on is there is an implication that people come into the country to commit crimes. And I really think sometimes the cause and effect type of a thing, the position and perspective that one takes in looking at a problem has a lot to do with what solutions one is going to find.

In our testimony, and this is actually a testimony of the leaders of the Equal Rights Congress that I am going to present to you, that our working within the community with, let's call it the front lines, we found some interesting examples to share with you.

And, in the first place, I wanted to mention that we are very aware that there is some antiimmigrant sentiment that is in the country that has always existed and that there has always been a denial of certain rights that people have.

And you yourself, Congressman Condit, mentioned the protections under the constitution and I am very proud that there are some protections for people, especially with regards to their treatment here in the United States and also that there are, at the United Nations levels, another layer of protections that I don't think anyone has mentioned but that also, whoever is in our land, whoever walks our streets, has really certain protection.

The one thing I wanted to mention also is this, that we pray for the tolerance of people with ignorance because we really strive at trying to become educated and really see, like I said, see the problem in a truthful type of way.

I wanted to mention, too, that there has been some studies in San Diego and Los Angeles that have been kind of biased—have been a lot of talk about these studies and many of us have ex-

tracted certain costs and certain things, something that has been tried here in the county today.

And I wanted to mention that there has been now some counters with regards to the obtaining of these figures and so that we really need to be careful about not trying to blame someone but really trying to figure what it is.

Our situation, we talked about our changing environment that is kind of causing some of these changes in our economic system.

And I did want to recommend, because I did review Assemblyman Richard Polanco's "A Compendium of Materials Submitted at an Informational Hearing," this is for the State of California. It was a hearing that he held on February 25, and I would encourage your staff and the Congressmen to read that. That it also deals with, the manipulation of figures on these studies that I have mentioned in San Diego and Los Angeles; and I am sure you are already familiar with that. I wanted the public, also, to know about that.

With regards to the issue of immigration, I want to make sure that it is not something we are seeing that is only exclusive to the United States and Mexico. Or, you know, we have talked about the refugees; I am not really an expert on that, more my level of knowledge is within the area of the population to the south of us.

But I think the main thing, in speaking with people, is that the hardships that they are having in their homeland, and where it is that we try to say, well, the Mexican Government is really responsible for that, but we know that there has been certain freedoms of American companies to go, that there has been a displacement of workers in Mexico and that there is a huge population. I mean, even, I think sometimes without knowing the facts, that Mexico has 80 million people population versus 250 million in the United States.

Sometimes there is this invasion type of syndrome that is talked about, kind of like we are being invaded by all these hordes coming from the south. What I would really like people to be familiar with population so that we don't feel like someone is coming to take it over.

I think the main thing that we would like to see is that we don't condemn people for trying to seek a better place to raise their children. And we have known that, historically, the United States has been a very prosperous country and that part of that prosperous nature has come from the cheap labor, as Ms. Torrez alluded to, also. That, even though California can probably compare in the international market on our agricultural products, we are still very low paid, very bad conditions for the workers.

And I think that that has to be considered with regards to our richness and our prosperity is that it is because there is a vulnerable work force that comes from the south and, many times, also migrates.

I also want to just correct for a minute that, while some people really feel that farmwork, farm labor is an unskilled anyone can do type of work; well, that is not true. In this scientific world that we live in, everything has become transformed, that even our dairies are computerized now and there are so many things that have been impacted, that no longer are there unskilled people really, even in

the farms. Even how to prune a plant, that I have read about, I mean, that requires certain knowledge. So it is not like anybody can just go do that.

So I think basically, if farm labor were paid at a comparable rate to construction or automobile workers, I bet all kinds of people would do the farm work, it would not just be the low-paid people. OK? So, just to try to give you a certain level there.

Also I wanted to mention specifically, and I include this in part of the written testimony, is that we have had an impact of loss of jobs. I am familiar with economic development agencies who really try to lure businesses so what is happening is companies leave one community—they dump the work force in one community and come to another and everyone feels real happy that they have got new jobs for their people, but what about the community they left behind? So it is really not being helpful that our own tax moneys are being used to hurt some people in some community but yet, for a little short while, we have jobs in our community.

I wanted to mention the recent elimination that the migrant education program of 120 jobs that are going to be lost; this is from the lack of Federal moneys. And I wanted to ask if you can help restore those, that it is going to be something else that is going to hurt unemployed teachers and also children that will not have the services that they need. And we have talked about that priority.

Really, I am concerned that our children are not continuing to be the priority to really secure our future.

With regards to our involvement or relationship with the INS, I cannot say that it has been a good one. Our organization has, in the past, documented 14 farmworkers that have died, drowned in our canals and rivers. And although there has never been any admission to the fact, it has always been the U.S. Border Patrol that has been around.

We are glad to say that, since the IRCA 1986 law which prohibited the raids in agricultural fields, we have not seen any more drownings, especially in that relation.

And we are concerned that, given some of the misinformation and the half-truths that the public is exposed to, that you may be pressured or influenced to increase the number and/or authority of the U.S. Border Patrol. And we want to urge you to take caution and to help to regulate this agency that has, at times, been misused and sometimes out of control itself.

And, as a matter of fact, we have participated in a campaign to find out how to document complaints and even the INS people themselves don't know what forms should be used or who is responsible for any complaints of mistreatment.

And so we would like you to know that, also, that it is an agency that sometimes is very hard to know where to get hold of them.

I wanted to mention, also, one thing about that—you asked a question in your letter about what is fueling some of these hostilities or friction within our communities. And we want to let you know that one of them that fuels some anger out of the cultural community is insensitivity toward, say, an English-only type of measure; it is not policy, I understand that there are a couple of laws I want to urge you to not support. A language of government

has a very serious potential of hurting people that are on their way to becoming assimilated.

I know that there are people that sometimes are very angry that maybe a Spanish-speaking person has not learned English. Well, there is always a flow; it is not like you have been here and you have to learn English and that's it.

We consider language as part of our culture and that we have extended families that we visit in Mexico and that we will continue to have that language.

I know personally, my daughters were not able to get into a bilingual program because it is not a maintenance type of program. Bilingual programs here are to learn English, they are not to maintain your particular culture.

And so right now I have a couple of my twins that are 10th graders, struggling with some Spanish classes, just like your kids would too. So that is OK. But I think my kids still have an advantage auditorially because they have heard it before. So, you know, there is a difference in competition there.

I mentioned one example here I would like to share, to explain the danger of this English-only type of movement and that is a denial that other languages exist. That we came across a Spanish-speaking mom who was mandated by the court to seek parenting classes at a mental health department but, since there was no one Spanish speaking, the judge just forgave her for it, you know, she never really got that intervention that she needed for becoming a better parent and knowing what are appropriate discipline styles for her children. So, in a way, our population is being hurt.

I know, in another instance where we tried to intervene, a young person, a 15-year-old that was picked up for shoplifting and was at juvenile hall, was not given over to the grandma but instead picked up by the Border Patrol and deported. So he never really knew what he did wrong. He was never rehabilitated as to what was his problem. Instead, it was deportation, just get him out of here.

I am concerned about maybe some other crimes. I know that there has been some suggestions on that on corrections but I would want to be sure that there is a rehabilitation of whatever the crime is.

With regards to some of the comments that we hear from farm-workers, I think you will find interesting, is that, not only is work not found as easily as before, but they are not being hired because maybe the farmers' or labor contractors prefer someone with no documentation and sometimes we've heard that people with documents will say they don't have any documents so they can land them a job. This is just a little change, not something that workers are used to.

Just in closing, because I kind of feel like I am taking a lot of your time right now, is that the farmworkers newly legalized are still having the problems. I believe I participated in one conference with you, Congressman Condit, that teenagers were not able to secure certain part-time jobs because of no Social Security numbers and because of delays in application through the INS or their response, but also that there is a lack of moneys, and the families are not able to build up that fund.

And I know Ms. Torrez talked about that, also, the costs associated with even applying to adjust the status of your children. Therefore, we still have children that are not documented and that is one of the main reasons why we would not want the schools to start participating in immigration type of check, that children would be excluded from schools.

Lastly, I want to just mention that, when an undocumented person purchases anything that is taxable, they are not asked, oh, are you documented; so that, if you are not, I won't charge you any taxes. See, that does not happen.

So we really need to be truthful about the payment of taxes and how we really are involved in our economy as a link to participating in this country, that it seems to us odd that, at a point when our Federal Government is trying to ease up the entry of products through the free trade agreement, that at the same time we want to shut the door on people's entry. So there has got to be something that is more humane about treatment and comparisons and participation in our economy.

And I know someone asked me once, are you for open borders. I really think that the question has to be studied. I don't know if that would be the solution or not. Some people are starting to say that, just like some people are talking about liberalizing some of the drug abuse types of things, right, about legalizing certain types of drugs. We need to really look at all these different options to find humane solutions.

Thank you very much for listening.

[The prepared statement of Ms. Sandoval follows:]

Written Testimony by

Mrs. Gloria M. Sandoval, Volunteer Staff
Central Valley Equal Rights Congress

Before the

House Subcommittee on Information, Justice,

Transportation and Agriculture

Representative Gary A. Condit, Chairman

on

Examining the costs associated with legal and illegal immigration

Merced, California

June 2, 1993

Congressman Condit and Subcommittee Members: Thank you for the invitation to present our comments regarding immigration and its impact on our community. First of all, we are familiar with and vehemently oppose the intent of some to blame all the economic ills on the undocumented and immigrant population. Unfortunately, we live in the same community with some of these people. We pray everyday for tolerance of their ignorance and try our best at setting the record straight. We hope that this hearing is interested in knowing the truth surrounding our budget deficits and resultant need for restructuring and not result in reinforcing this blaming. Some try to prove that something is true by manipulating figures and thus end up pointing fingers as to "who is to blame" rather than "what is to

blame" for the crisis we are experiencing across the board with regards to social services. We would like to highly recommend that you contact Assemblyman Richard G. Polanco who chairs the Assembly Select Committee on California-Mexico Affairs for a copy of "A Compendium of Materials Submitted at an Informational Hearing" on this very topic on February 25, 1993. The testimony presented provides analysis of costs and revenues related to specific immigrant populations and criticizes some studies that tend to exaggerate costs and minimize benefits put into the system by the undocumented worker population.

First off, we wish to share that we view immigration as a phenomenon occurring throughout the borders of countries in the world and not just between the border of Mexico and the U.S. People all over are feeling the hardships of surviving and decide to move to where they "hear" or have historically known to be a place where there might be some relief and where they can find the ways to ensure and fulfil the raising of their children and families. We certainly cannot condemn people for doing this. It is unfortunate that some countries have tried to legislate this phenomenon away rather than to seek the humane solutions at an international cooperative level. Some legislation only criminalizes victims of poverty rather than deal with the root causes of their displacement.

Our office handles a regular in-flow of calls with regards to need for services -- problems with school rules and officials, lack of adequate and affordable housing, employment discrimination, need for medical attention with no insurance, etc. etc. At a time when the public is paying more in taxes (and we must in all truth add that even

the undocumented in our communities pay taxes), we are getting less and less in services due to public employees getting layed-off or their hours shortened. As a matter of fact a recent article in the local paper reported the elimination of 120 jobs in the migrant education program due to a reduction of \$1.2 million in federal funds. What can you do to restore these funds? This is going to hurt our children and our communities.

Within the last ten years the Central Valley Equal Rights Congress, along with other community groups, has documented and protested the violence against the farmworker/agricultural worker population in the California Central Valley. The U.S. Border Patrol has been associated with incidents involving drownings in rivers and canals as well as brutal treatment in their arrest procedures of alleged undocumented workers. We were glad that the Immigration Reform and Control Act of 1986 finally prohibited U.S. Border Patrol raids in the agricultural fields. We are concerned that given the misinformation and half-truths that the public is exposed to, that you may be pressured and influenced to increase the number and/or authority of the U.S. Border Patrol. We urge you to take caution and help to regulate this agency that has at times been misused and sometimes "out of control" in its enforcement efforts. Additionally, it is the anti-immigrant bills at the state level that are fueling the frictions and hostilities within our communities. What seems to be causing the lack of safety is the high unemployment and poverty that sometimes drives people to desperation and to hurting others. This is not an exclusive crime of the immigrant or undocumented populations --it affects all alike. These tight economic times have even provoked

cultural insensitivity in the name of saving money. An example of this cultural insensitivity is a recent local action taken by our Merced County Board of Supervisors with potential to be misused and abused. Their 3 to 1 vote in support of a Language of Government resolution supporting the English-only movement is a real blow to the more than 30% Hispanic population in the county. It's sad but also dangerous. Taking this position only made an already existent policy "official." To explain this danger further we would like to share that we received a report of a Spanish-speaking mom who was mandated by the court to seek parenting classes at the mental health department, but since there was no one Spanish-speaking available, the woman was just forgiven by the judge and not required to correct her inappropriate discipline style with her children. We have heard more and more often that Spanish-speakers need to take their own interpreters such as at the Housing Authority or Senior Legal Services agency. How much more of this will we see? It is this type of irresponsible action by our "elected leaders" that promotes friction and misunderstandings between culturally different communities and that denies equal access to badly needed services. It is a double standard that exists; the promotion of a second class status for taxpayers.

We would like to share comments from farmworkers that report that they cannot find work as easily as before; are not hired because someone with no documentation is preferred; and that some prefer to say they have no documentation and willing to pay \$50 in order to land on a job. We understand the need to work--people go to other states and cross borders to seek and find employment. Yet, it is also

understood that it is not the worker with no documents that takes away someone else's job--but instead the employer /contractor that will exercise his/her hire and fire privilege to lower their own costs and end up with a worker that will work as long as the "patron" wants him to and in whatever conditions he/she is ordered to work in. Exploitation and violation of labor laws become easier with this mutual convenience. The economic crisis is making everyone more vulnerable. Where are the labor enforcement officials? By the way, we are also aware that farmworkers and other people in need refuse to go to the welfare department because they are treated rudely and are made to feel humiliated and insulted and prefer not to go through the application process. We encourage the filing of complaints and appeals. It is terrible that in the richest, most agriculturally productive region, anyone should have to suffer hunger.

Another issue that worries newly legalized farmworker parents is that they are so limited in funds because of their low wages that they have not been able to adjust the legal status of their non-U.S. born children. The processing costs of the application may not be that prohibitive for some families; but for others an impossibility. Some of these children are teenagers who cannot obtain a social security card because they do not have legal residence and thus continue living in the shadows of our free society. It is an insane proposition that we exclude children from receiving an education because of their undocumented status in this country. We must believe in progress not in regressing to limited rights. We don't understand how anyone can say that undocumented peoples do not pay taxes. We have never known of anyone to be asked if they were undocumented so that taxes would

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not be charged when buying T-shirts, cigarettes, or gasoline! Have any of you? In fact, we all need to be more informed as to where our taxes are going. We hope you can help enlighten us to this.

In closing, I wish to summarize that we are very concerned about how our economic problems are being used to blame a sector that is also a victim of the changes that computers and technological advancements are causing structurally in our country and world. We hear and read on a daily basis how companies are laying off employees and upgrading their productive capacity. Locally, we've read about the Conagra plant closing with 600 jobs lost or the Foster Farms plant announcement of worker reductions-- not to mention the present negotiating on the Free Trade Agreement. It is ironic and contradictory that at the same time that our elected leaders discuss a free trade agreement that will allow an easier flow of products in to our country, that there should also be discussion of how to secure our borders to keep people out. We would like to ask you to strive for a comprehensive understanding in identifying the problems and in finding the humane solutions without blaming human beings who are merely trying to survive by making a living. Once again, thank you for this opportunity to share our comments.

Mr. CONDIT. Thank you, Ms. Sandoval, we appreciate very much. And I must say this before I forget to say this.

I would like you to know that I asked the GAO to do a report to study the numbers used to measure illegal immigration and I agree with you, that there is a problem with the numbers. This report will be issued, hopefully, in the next few months and we will have at least a document that we can all agree upon the numbers, hopefully. So we are working to try to fix that if we possibly can.

And, as you know, the point of what we are doing here today is to build a record, a document, ourselves so that we can hold the Federal Government responsible for Federal policy, and hopefully, on how to improve these activities. And there may be a disagreement on how we go about improving them but we are trying to build a record and we are glad that you are here and all the witnesses are here today to help us do that.

Mr. Vang.

**STATEMENT OF HOUA VANG, MERCED LAO FAMILY
COMMUNITY, INC., MERCED, CA**

Mr. HOUA VANG. Thank you for giving me an opportunity to speak here today and also thank you Honorable Congressman and subcommittee member.

I am Houa Vang from the Southeast Asian community. What I am going to testify today is focusing about the Federal employment budget. As our Southeast Asian community, the experience that this Federal ORR employment budget is so restrictive and we cannot serve others as we want to. This loss of youth in the community, they are reaching 18, but they need employment which we cannot provide employment to them.

Now the only option the youth can do is maybe we refer them to some—but some of them get married and have baby so they can qualify AFDC and maybe some of them join gang because they got no income.

We believe that many of these youth can be employed if just a project to assist them to help them. And, as many youth joining—reaching 18 now, if they are not employed because we turn them down, they are not qualified. We only serve youth with AFDC but these youth are not AFDC any more because they are 18. And there also should be noncitizen or refugee status so we can serve them.

And many youth have been turned down, now they cannot find employment any place else. Many of these youth will start running around at the county library, for example, and some park or recreation. Some of them will try to bribe the younger kids to go as a group and play around. And we believe that now this cause problem in our community.

We recently did a survey; we believe there is lots of prejudice about discrimination might occur in our community now. Recently we see lots of, about 300, survey costs to employers asking them three questions about how or what is the best way they can hire—a refugee can be hired. They said—they put down there, No. 1, communication or language; No. 2, we are talking about training; No. 3, skills. And many employers, about 14 percent of the employer turned in our card and said “Don’t hire them; send them

back home. Hire American people." And we believe that is something—prejudgment or something.

And also, just as we have lots of youth running around apartment or just turn on their stereo loudly around, we believe that many landlords try to chase our people out or move our people out from the home or their apartment.

Recently, just about May, we got over 10 cases about landlords try to kick the tenant out of the home and we try to offer bilingual aid for assistance. And what legal aid can do, refer us to small claim court. And small claim court will say it's too many thing and they cannot handle because a lot of case. A case cannot be solved yet, another case coming in; and they will say, OK, the best way, just go to Merced, and have a pass release or tell them about your problem, so that will educate landlord or manager; that's all they can do.

And I believe that, in order to be able to serve the refugee community and be the best way to help the refugee to be employed, we need to see if the ORR can provide flexible amount of money or flexible regulation so we can serve our youth other than just for refugee with noncitizen.

So we prefer to serve the youth and we believe that, to just pull out people from AFDC, there should be some way to try to prevent people from getting into AFDC.

And that is all my testimony.

[The prepared statement of Mr. Houa Vang follows:]

Houa Vang
Merced Lao Family Community, Inc.
855 W. 15th Street
Merced, Ca95340

Tel: (209) 384-7384

Testimony in Subcommitee on Information, Justice, Transportation, and Agriculture.

The Cost impacts federal immigration policy have on local communities and states are Raises AFDC costs, Educational costs, and other service costs, which results in higher taxes, but lower services.

- * Provide longer RCA term.
- * More employment services available.

Cities, Counties, and State provide the following services to refugees:

- * Social services
- * Educational services
- * Employment services (those qualify)
- * Legal services

Giving unadeguate federal and local funding, local communities face in the following problems:

* Class division and alienation, and unwillingness to accept and assist each others- the lack of sufficient funding make many refugees to use and cause problems at the library and other recreational parks. IN addition, Gang or crime involvement is issue at the local level. As the problems continue, I believed that no employer or other groups will accept refugee due to prejudgement.

The federal government should responsible to pay for the costs incurred by the state and local governments. Federal government should figure the number of refugees based on the amount of money the federal government has.

At last, I find that the federal refugee funding is too limited in services. Example, the the local employment project cannot serve former refugees but now become U.S. citizen. Still 70% of these people cannot communicate well enough to be employed. To reduce state and local's costs, federal program should be for everyone who are former or currently refugees.

Mr. CONDIT. Thank you Mr. Vang.

We will come back in a little bit for some questions.

Mr. Moua.

STATEMENT OF DAN MOUA

Mr. MOUA. Thank you for having this opportunity, Mr. Chairman and thank you for the opportunity that I was confirmed by the chairman of the board of supervisors to confirm me that there will be a holding of the hearing in this location.

I briefly have two issues; one is on refugee time expired, the other one would be administration funds.

The time expired, as I recall, sometime about several years ago that the government did allow the 36 months and it has been cutting down up to, to date, it is 3 months. I think 3 months does not give enough time to—not even 3 months—I mean, 3 years does not give enough time for a refugee to start his life in this huge society, this complicated society, yet.

I am using myself as an example. I have been here for 17, almost 18 years. And I have been accustomed to the western societies, way of life, like the American, like the French Canadians, and I still have a very tough time to adjust myself. Even this standpoint of time, I still have a desperate hope for my future and I hope that there are a lot of refugee out there who did not have the opportunity background, they would have a tough time to adjust themselves into the mainstream of the American way of life.

I would like to address, again, to the chairman of the committee. There are some new arrival refugee who came to the United States in different times and these refugees, I think, they also need to have—they deserve to have some time to be taken care of like the earlier one, the early refugee.

And I notice that these refugee, they make a living back home as OK so far until the war start and the only skill they were trained is the combat. And when they arrive in this country, the combat is no longer exists so they have to trade that into a different one. So that is—it takes a little longer and I like the committee to bring this back to make the public aware of that.

Of course, as an adult—I was as a kid, so I came from a different culture. We need more time to adopt into a new society like the one in America.

On the other one, which is the SBA funds, I know—I have been involved in the one particular program which is called the refugee business development plan with the county here, that the county implemented to the SBA. And I feel like there was some criteria in there that need to be revised.

With those refugee, in that criteria it is stated that the refugee who arrive here more than 5 years, are not qualified for the loans to start a business. And I would like to address this concern that it is—as a refugee, especially the Southeast Asian or the Hmong or Lao and Mien, I think they don't have any capability to start a business within 5 years once they arrive here yet.

It has to give this opportunity to other people to be as a model for the community, as well, to start business, those people who have well adjusted successfully enough to move on, to get the loan. And a newly arrival refugee, within 5 years, doesn't even know

what we have, what kind of loan or what business they want to start.

I think that, if anyone in the local, need the help to address in some detail, I would be willing to assist in that point.

In Merced County, sometime ago, I was a contractor for strawberry pickers and it has not been very successful due to the marketing somehow. But the company had closed down for the strawberry part until 1990, that had start again and some more strawberry growers in Merced County here. And they have been successful in that growing crops. I think, in Merced County, I would take a rough figure that at least the strawberry would bring them income of about \$4-\$6 million and that is a big—significant, that these people have made a great progress.

Thank you.

Mr. CONDIT. Thank you, Mr. Vang.

I want to follow up with a question on the SBA to make sure I understood the policy of that. Mr. Lee.

STATEMENT OF BLONG LEE

Mr. LEE. Actually, everything here said, almost everything has been brought up from different agencies, different departments.

I am pretty much of the guy who is last and I wanted to put everything together and see what things, you know, can be done.

And the first thing is thank you so much Congressman Condit; this is a chance that we all most wished to have that we can, like you said earlier, that this is what we put together and have the Congress, the government, revise again and put back to the people so that everyone can have.

The other thing is, thank you so much for, Supervisor Mike Bogna, for letting me know, confirmed that this is a hearing, a very, very important hearing; that is why I really—to get into this area today.

What I am saying is, it is a change generation because our current President is talking a lot about changing and this is why I am taking this time here to talk about changing, especially in the special group that most of us, especially this morning, are talking about, is the refugee.

As we know, that Merced County is truly impacted, as well as the area, the new brother and sister, to—for a year these people settle in the county, many of them have come to graduate from college and university.

People have never mentioned this morning, but we made a way to large number of people, you know, kids that graduate from university and college. Many of them achieve the goal through work experience. I have known that several of us have made that to them. And many of them experience the change of their life living style.

See, in the past, we deal mostly with social adjustment and legal regulations situation; we deal most about that. But whatsoever done, it needs to continue to make it better. I don't really mean that this thing here has to be stopped, but I do like to think and reconsider about refugees changes.

I am concerned about one change on the welfare system, from the least appropriate of all to the best one. I am concerned if one

refugee can change his or her style of living. And to be honest, we are serious about the step to change. A change everybody should be proud, feel good, and be important in today's society.

I can see that, today, a lot of Asian refugee begin to accept the change, particularly the Hmong group, the Laotian, and the Mien are the particular group to face the encounter. I am asking you to add more, specially the State, the government, and the Congress, the U.S. Government, to put more hands to this change.

I am asking those of you who present here today, those of you who feel how a change to life is like to a special group of people, to those who wanted to change his or her present situation to a better and creative and supportive society.

I think it is now a time for you and I, or us, to search for a solution, a solution that is real and beneficial and must be able to generate—I ask and I urge, once again, let us together begin to analyze carefully, with a pencil, start to draw what and where the needs are and understand that there is potential growth in the Hmong, the refugee community in the near future if the Federal and local government give a hand, a true hand.

I know there is definitely a way where we can all accomplish making of Merced County a profitable and flourishable place to live. It is so beautiful to keep every distinct group living happily and successfully in its own way.

I know this also, this is never can be easy done but, if we really want to try to put things together, to put things in the right direction, we will certainly be glad that we did.

And thank you very much.

Mr. CONDIT. Thank you very much, Mr. Lee, we appreciate your testimony. It will be in the record and we appreciate your participation.

And we have Mr. Vang, Peter C. Vang.

Thank you, sir.

STATEMENT OF PETER C. VANG

Mr. PETER VANG. Thank you very much. My testimony today is just very short.

No. 1, I heard many refugees from here and personal, asking me that INS have a new law, said that the refugee and the immigrant who arrive here before 1979 have to change their status to INRE, so there is a concern about because, INRE, they have to pay \$70 and I really don't know exactly why.

According to that, is it possible to locally, like from office here in Merced, provide any form I-130 or I-134. Right now, when we went to a different office, we saw a lot of form N-400 and GA-325 and others; but we didn't see any I-130 and I-134.

As a refugee in Merced, they really need help for those instead of going to Fresno and sit there all day long and got only one form. That is a small thing.

I think that the Congress can furnish and provide this help for those who already are near.

For my No. 2, that is a concern of the Saudi Arabia refugee, education and cultural references, especially the refugee in Merced County; but I don't want to duplicate. I really very, very strongly

support Mr. DeLong and Lee Pevsner of the Housing and Education.

We are so proud because, since we know you came from Washington, DC and so happy to meet you here. Most people say that they are people from Washington, DC work with paper, but people locally work with people. And so I agree with that. So we here, as cities in the United States, and we deal with the Hmong a lot here. So I would like to address this one issue.

Whatever you can support, please provide, like Lee Pevsner or Mr. DeLong say that, through just locally, because we build associated together, no matter black, white, brown, yellow, so we have that blurred. The world is so narrow, we have only one God, no matter from Saudi or from everywhere.

Thank you very much.

Mr. CONDIT. Thank you Mr. Vang, we appreciate it and the suggestions you made, we will take a look at those. And your comments obviously will be in the record.

I would like to ask just a couple of questions; I will not delay this for a long period of time. But a few months ago we had a hearing in Washington, DC and we received some testimony there in which there were some comments about the manner in which INS sometimes deals with individuals within the Hispanic community, including U.S. citizens.

I would like to ask Ms. Torrez and Ms. Sandoval for their comments. Do you have any knowledge of how the Hispanic community is treated at the border, some that are citizens and some that are not and, if your comments are negative, the followup question is: What should we do to correct that?

Ms. TORREZ. Yes, the comment is negative.

The reports that I get back from these individuals going through the process is very demeaning. There are a number of statistics, hurry up and get through so I can get my paperwork done and get home and get out of here. They are not treated as an individual with a problem that needs to go through the system and get out of the system.

I have been asked if there was anything that I could do. I don't really know how to improve that system. I acknowledge that the INS is definitely overworked, just like any other department is. If there is some restructuring within the organization itself and perhaps increase the number of individuals behind the counter that could help in the largest area that is impacted and shift some of these employees about, that might be a resolution to the problem.

Mr. CONDIT. Ms. Torrez, you obviously know the names of these individuals who had problems. Did any of them submit complaints to the INS and, if they did, what happened?

Ms. TORREZ. The complaint process is almost—you don't do that, you don't complain to the INS. If you do complain, you are black marked.

It is, again, going back to feeling mistrust of the system, you do what they tell you to do.

Mr. CONDIT. What does that mean, if you complain, it is a black mark? What does that mean?

Ms. TORREZ. You are not helped, you are not given the services. If say, for instance, your number comes up—

Mr. CONDIT. Well, if you are a citizen and you were—were any of these people citizens that were not treated respectfully or had a problem at the border? What kind of black mark are they going give them; what are they going to do to them?

Ms. TORREZ. Sit in the back of the room until your number is called and then that number won't be called until the end of the day and the numbers before you and behind you have been called.

Mr. CONDIT. Have they made any complaints after the incident?

Ms. TORREZ. No.

Mr. CONDIT. After they got home?

Ms. TORREZ. No, they don't make complaints.

Ms. SANDOVAL. Congressman, the only thing that I have is, I think the delays at the border, it has more to do with Customs rather than INS.

It seems that in viewing us, there are some people who feel that, because of the way you look, that you must not have any documents. And we know that somewhere, some of the U.S. border patrolmen probably missed their training, because I do know that they are highly trained to detect.

I know a couple of complaints that I had was really more associated to a confiscation of their cars, of more legal residents rather than U.S. citizens, but there are times where family members do not ask under what status you are coming into the country and they go and have a relative pick them up by the border or whatever and, if there is an inspection, then there is some prosecution.

And those are within the family members, also, it seems.

Mr. CONDIT. Do you know individuals who have complained, gone through the complaint process?

Ms. SANDOVAL. Like Ms. Torrez said, it is always avoided and like I participated myself even, just at the Fresno office, to go up to their counter to ask for, I think it was a G-28 form, which is for filing a complaint; they never even heard of it.

Mr. CONDIT. OK.

Ms. SANDOVAL. So, you know, basically that. But I think the other is just the abuse, the verbal abuse that I have heard of people's treatment, I mean, even of people who, say, maybe don't have their green card with them are mistreated and are arrested and not allowed to bring that proof later on or whatever. You know, it just seems that it is a real problem with regards to the relationship of arrest.

Mr. CONDIT. Well, we might make available to you some of the comments we got from La Raza in Washington, DC and maybe you can add some comments to that for the record at a later time. We will have some additional questions.

I have one other question for you, though. You testified earlier that farmworkers are not finding work and one of the reasons is because maybe employers prefer to hire someone with no documentation.

Ms. SANDOVAL. Yes.

Mr. CONDIT. The law was changed, as you mentioned, in 1986. Has your group reported any of these employers to the INS, the names of the employers?

Ms. SANDOVAL. You know, the position that we see is that everyone is struggling to survive and it is as if you are turning in your own family member.

The real problem is that there are not enough jobs; that is the real problem.

Mr. CONDIT. So the question is: Your organization has not turned in the employers; is that correct?

Ms. SANDOVAL. That is an individual decision for whomever would like to do that. In fact, one of our board members had a request but it had to be anonymous, right from a community member who had that complaint. But we have also known of, say, a landlord who, instead of going through the process of eviction, calls the U.S. Border Patrol to try to get that tenant out; that is a misuse of the INS.

Mr. CONDIT. OK.

I am sorry to focus on you but——

Ms. SANDOVAL. OK, no problem.

Mr. CONDIT. But Ms. Torrez can also respond if she wishes to do so.

Particularly back east, in the Washington Post and several news articles have suggested that drug traffickers are utilizing illegal immigrants to carry drugs across the border. And, if you have not read the articles, we will certainly make those available to you.

If that is the case, if that is true, what are your views regarding the use of Border Patrol personnel to help stop the flow of drug trafficking across the border?

First of all, have you read the article?

Ms. SANDOVAL. I have not read the article, no.

Mr. CONDIT. OK.

Ms. Torrez, have you read the articles; are you aware of the articles at all?

Ms. TORREZ. No, I have not read the articles.

Mr. CONDIT. OK.

Mr. Peterson, have you any questions that you would like to ask?

Mr. PETERSON. What do you think about NAFTA? Do you think it is going to be a good thing?

Ms. SANDOVAL. You know what I really believe about the free trade agreement is that companies will have an easier flow out of the country because of the cheaper labor still available. In fact, I talked to someone recently that there is a lot of Chinese that are working in Mexico now, too.

And so, you know, Taiwan has come into Mexico, you could say, and the comparative cost of living is about equal to the United States. Your cost of food in Mexico is about equal to the United States but the pay is so much lower.

Mr. PETERSON. If you haven't been reading the Washington Post, you should do that because, in there, it says that one of the things that people don't understand is that there is good inexpensive, affordable housing in Mexico at \$5 a month.

Ms. SANDOVAL. Well, they say that about Merced, too, but, you know, people who live in Merced cannot afford it either.

Mr. PETERSON. I don't know, I can well imagine what that housing is at \$5 a month. But you don't think that this is going to revo-

lutionize Mexico and increase the wages 3 or 4 times what they are today?

Ms. SANDOVAL. I don't, Congressman, because I really feel that the competition is what is going to impede that standard of living for Mexico. It is the profits that companies are most concerned about, not so much about the work force and their family situation or their community and how it is.

I really believe that it is going to be an opportunity for a lot of companies to upgrade their particular production systems that are going to really use the most modern. I know we have here automobile plants that use robots, no longer do you have to have labor any more.

ConAgra, here, recently is going to lay off 600 workers, just here in Stanislaus County. They are going to keep the other, what is it, four plants open; but this one was not profitable. So, if you have companies that are only based on profit, not based on the harm that they bring their community, we don't have the controls.

Mr. PETERSON. ConAgra just closed the turkey plant in my town. One of the reasons they gave us was that it was so they could keep the plant open here in—where is it?

Ms. SANDOVAL. Here in Stanislaus?

Mr. PETERSON. I think so.

Ms. SANDOVAL. No, they just decided they were going to close this one, too.

Mr. PETERSON. You and I are on the same wavelength in this. I am going to San Diego to find more evidence tonight. We are trying to—I don't know about Congressman Condit, but I am trying to kill NAFTA, that is my main goal in life for the next year or so.

Ms. SANDOVAL. Well, we have Diamond Walnut here in Stockton, just to give another example. A few years ago, the walnut company moved part of their operations to Tijuana, saved \$1 million, dumped a bunch of workers in Stockton.

Mr. PETERSON. When was this?

Ms. SANDOVAL. This was a few years ago. This was before free trade.

Mr. PETERSON. You save more wages?

Ms. SANDOVAL. Oh, yes, definitely.

Mr. CONDIT. I knew Mr. Peterson would work in his NAFTA hearing at the same time.

I do think there is some connection.

Would you please stay there for just one moment?

Ms. Torrez, can you stand up there, too, and maybe we can—I will try to speed this up a little bit but I would like to get your reaction.

You made the comment earlier about there has been a lot of emphasis and references this morning on felons, illegal aliens who are criminal, who have committed felonies, who have gone through the court system. And there was some discussion about transfer treaties, in which we could send the criminals back and pay that country to house them in their own facility. I don't know what that agreement would be but what is both of your reactions to that?

You know, the purpose of that is to reduce the cost to the taxpayers of this country and to place those people where they belong

in the first place if they are illegal, but there should be no mistake, the people we are referring to—they were not criminals because they were here illegally, they were criminals because they had committed a felony here and been convicted through the court system.

But anyway, what do you think of that treaty transfer idea? Do you have any comments or thoughts about it?

Ms. TORREZ. My comment on this is, years back, if you had asked me this question, I would have said it was very unfair to send these individuals back. However, these past few years, I have matured a little and been able to do research on this, both personally and educationally.

I agree that the country should take back their residents who commit crimes in the United States; and the United States should send them back. But there should be some policies and procedures lined up to where it is done appropriately and not mishandled, as has been done in the past.

The Border Patrol situation back in the 1960's, I personally was working out in the fields at that time when we had a raid and I was never so embarrassed. Not for myself, my family was legal, but for the other residents. They just scattered throughout and I don't ever want to see that again. And please take that back with you, also.

Mr. CONDIT. I have noted that. I have witnessed that before and it was not a pretty sight. I concur with you.

Ms. SANDOVAL. I have some reservations right now about whether that would work. In the first place, I don't believe the taxpayers from the United States would really be too happy about giving a foreign country some other assistance when it is needed here.

I think that we need to look at the growing figures of the general population, not just the undocumented population. And I would really like to explore the possibilities of death row inmates right now. There are quite a few cases of Mexican nationals that are on death row. At the same time, Mexico has no death row, no death penalty law. And I would like to see if something can be done with regards to that type of exchange right now as an example of what can be done with a greater population.

I really feel right now—even in the State of Texas, Congressman, they have just recently put to death a U.S.-born veteran of the Vietnam war, to death, based on the fact that the courts would not admit certain evidence any longer. And even Democratic Governor Ann Richards would not give clemency in that case.

And I am very concerned. I have a lot of distrust for the court system because, in many cases that we've heard, there has not been the proper proceedings. And, even if people are in prison, it does not mean that they are guilty of the crime that they have been accused of.

Mr. CONDIT. Well, OK, I will accept that as your answer and not take that as a challenge to debate with you; we are not here to do that.

But I do appreciate your comment. I will move on.

I would like to move to Mr. Vang and Mr. Moua and Mr. Lee, and Mr. Vang, whoever would like to comment. It does not have to be repeated but I know that you talked about the new refugees coming in and that they actually need more time so that you could

mainstream them into the community, so that they can be trained in terms of vocation, in terms of academic skills, so on and so forth. And I guess the funding now, we talked about it earlier, is 4 months. I don't know how anybody that comes from another country could do that in 4 months.

But maybe you can give me a time period of what you think the Federal Government ought to do. What is a fair time period for us to have a program after that.

Mr. VANG. Whoever would like to?

Mr. HOUA VANG. Well, thank you, chairman.

I feel that, in the previous decade, I mean, a decade ago, I think the government allowed 36 months and we don't want to request, ask for any more than what the previous length of time had been in the program.

But, as individual, I have experience in working with the refugee for 17 years, since I got into Merced here. I think 36 months, or 3 years, would help to start.

Mr. CONDIT. Do you think that the 36-month period, was it successful, in your opinion?

Mr. HOUA VANG. No. Some people, it depends on the background where they are coming from, some people may have a education background and they may—with 3 years, they can start.

Mr. CONDIT. So then this comes back to Mr. DeLong's comment that there ought to be some flexibility in evaluating the individual. If they come in with some strong vocational skill or academic skill, it may take them 12 months, 6 months, but it may take somebody else 4 years; is that it?

Mr. HOUA VANG. That is right. But, with the refugees, most likely 3 or 4 months is not going to work at all: absolutely no, for 3 or 4 months.

Mr. CONDIT. OK.

Let me ask you, and you answer for everyone else, unless someone just feels real compelled to respond to this.

How do you feel about the fact that the Federal policy has gone like this—we have moved the Hmong in, made a commitment to take 36 months to train and prepare them for getting them into the work place and they are still bringing them in and now they are back to 4 months? What do you think about that? How does that make you feel?

Mr. HOUA VANG. Well, we feel like—of course, there are so many politicians back in Washington, the way we—and some—

Mr. CONDIT. Well, it didn't take you very long to figure that out, then; did it?

Mr. HOUA VANG. And some feel that it would be appropriate to use the 36 months. But some just feel that why don't we just get rid of it and this depends on the majority of the House of Representatives. But, an appropriate time would be 36 months at least. Other than that, they still need assistance from different sources, from the local or State agencies.

But what we feel about it is, there is several things that we have in mind but we are accustomed into the society in somewhat and we can pretty much go along what, you know, our Representative would commit himself or herself to through the program that we could implement it productively for the community.

Mr. CONDIT. Does your community receive adequate information regarding citizenship procedures?

Mr. HOUA VANG. In that matter, Mr. Peter Vang was the one who could answer that question.

Mr. CONDIT. Do you want to respond to that, Mr. Vang, with a brief comment?

Mr. PETER VANG. I have family with those, you know, so—citizenship, you mean; right?

Mr. CONDIT. Right; yes, sir.

Mr. PETER VANG. There are so many people deciding to become, even very old people, you know, the age of 70 years, you know, they are deciding to become citizens. But it is hard for them because they can speak a little bit but they cannot write enough, you know. So any idea, that is a lot of the issue, too, the idea that people who came here for 17 years, 18 years, and speak a little bit in English can become citizen, that is their good help, too, you know; they still dream too much about that.

The people dream of coming to this country. But the real one is that they want to become citizen of this country and to set their root and foundation in this country, no matter of race or leaving a small, you know, cabaña house or something like that. So they want to set their foot on the foundation and root in this country; and that is a very strong issue to you.

Mr. CONDIT. Let me just ask one last question and either Mr. Vang or Mr. Moua can respond to it.

Does the Southeast Asian community tend not to report crimes committed against them? I mean, is there a hesitation to not report because you are afraid of what might happen?

Mr. PETER VANG. You mean report to the officer or to the police department?

Mr. CONDIT. Yes.

Mr. PETER VANG. I don't think so. You know, they would like to, but according to society in this country, the system is just like any other group.

One case, you know, the mother came to me because the son ran away to join the gang. And really wanted to report the police but the mother so afraid with the son, would come back to give trouble in the family. And I told her don't be afraid because the police are not going to say anything to your son that "your mother report to me;" they are not going to say that.

And so, yes, at the time they still don't understand adjusting to society here, to say that the police officer or mother, they are going to say something to my son or my daughter and they let the gang come to my house and do some bad thing. So they have to be careful of that, too.

But I don't think that is a big problem with that.

Mr. CONDIT. Mr. Moua, do you have any additional comments to make to that?

Mr. MOUA. Yes, Mr. Chairman.

I have been experienced. As a matter of fact, I had been a victim of the robbery one time and I learned from the community one year after another, one case after another.

It is true that the community, the Southeast Asian community, they hesitate not to report that due to the lack of support, the backup.

For instance, if I—I would exclude myself because I was sitting next to my criminals in a court and I am different. But 99 percent or 98 percent wouldn't do that. They are afraid that, like Peter Vang just stated, they would come back after them. And the only result they are going to get from is the report to the media that, today is June 2, Mr. so-and-so death due to the gang so-and-so; and that is the only thing they will receive.

So they feel that they don't have enough support from the either local or—the local officers to assist them in either physically prevent from the problem or emotionally train them on the understanding of how they could report, you know, how they would report to the police officer.

And this needs some kind of program that goes into the community to make this aware.

Mr. CONDIT. Did you concur with the chief earlier when he said they strive to do an education program, they have a Hmong officer; has that been helpful?

Mr. MOUA. Yes, it is helpful.

I recall, a long time ago, I don't know if Chief Lunney has been there yet but I was working together, volunteer, with Augie Parrezo, one of the city police community coordinator, we were giving some of the community awareness program to the community. And it looks like it works pretty good but, not very long after that, it looks like the city or maybe they don't have—they run out of budget or maybe short of staff or something, they just don't have it.

I am glad to hear they just have started; I think that will help.

Mr. CONDIT. Thank you, Mr. Moua.

I want to thank all of you very much; you have been very patient today and you have been very gracious with your time. The information that you have given us will go in the official record and we will put it together at the end of our final hearings and, hopefully, it will be helpful to put some policy together that is good for the country.

Thank you very much.

That actually really concludes the formal testimony. We have had two people that have requested to have their comments recorded in the congressional record and we will honor that request. If they would do me one favor, we have been here all day and I am going to ask them to come forward and, if they have got written comments longer than 5 minutes, would you allow us to put it in the record, and I will give each of you 5 minutes.

You were not on the agenda but we certainly want to try to accommodate you.

So I will ask Don Ruth and Melinda Cornwell to come up.

Thank you very much for coming.

Mr. Peterson has to go catch an airplane so we are just saying our goodbye's.

Mr. PETERSON. I apologize for running off.

Mr. CONDIT. We are honored to have you here today.

Why don't you, for the record, just introduce yourself and your address, please?

STATEMENT OF MELINDA CORNWELL, RESIDENT, MERCED, CA

Ms. CORNWELL. I sure will. My name is Melinda Cornwell; I live here in Merced at 21st and K Street.

Your staff knows me because I have come before them requesting a library for south Merced, requesting their cooperation on this issue. They have been very pleasant, very polite with me every time I go in there.

Congressman Condit and esteemed panel, the gist of my written remarks was basically covered in the remarks by Ms. Torrez; some of what Mr. Pevsner said also covered this. Ms. Sandoval touched on some of my points, that our main concerns here in Merced County, at this point, for the average working person are jobs and housing. Those are the two things that I think everybody would agree are most urgently needed.

I would just like to read a little bit of my written statement.

Mr. CONDIT. Certainly.

Ms. CORNWELL. I have volunteered for the last 3 years in Merced County at many charities and agencies set up to help low-income persons. Many of these agencies cannot help people who don't show a Social Security card. Even the ones that assist undocumented persons run out of funds on the average by the end of the first week of the month, each and every month.

I ask you to remember today, amid all the facts and figures, that extreme economic deprivation is a causative factor in some property crime, especially among undocumented persons. Without the necessary papers and, in a county with 20 percent unemployment, people sometimes become desperate.

I feel that the most costeffective approach to noncitizen crime is to target preventative measures such as education, health care, and school lunches. A noncitizen who has come here seeking a better life at great risk will rarely turn to crime if he or she is supported in the attempt to become a productive taxpaying citizen. We can't afford not to make these things available such as school supplies, libraries, and health care.

Thank you very much.

I realize that there is budget constraints all the way around but I think that every dollar we spend on children is going to repay us a thousand times in the long run. And, other than reiterating our request as a committee for a library for the children of south Merced, I have nothing further to say at this time and I appreciate being added to the agenda on such short notice.

Mr. CONDIT. You are quite welcome.

Mr. Ruth.

STATEMENT OF DON RUTH, RESIDENT, LIVINGSTON, CA

Mr. RUTH. Thank you very much for including us into the record here. My name is Don Ruth; I live at 1518 Nut Tree Road in the city of Livingston. I am a constituent of Mr. Condit.

I am speaking today on behalf of Merced Justice and Peace, which is a local organization, countywide, whose mission is to pro-

mote social and economic justice, peace, and solidarity through education, advocacy, and other activities.

We value the opportunity to share our thoughts on the important question of immigrants and Federal immigration policy and INS activities on communities. Your presence here today reminds us of the precious nature of participatory democracy, and that is we the governed who choose and elect our government.

I would like first to acknowledge the fact that all of us, except the Native Americans, are immigrants or descended from immigrant stock. We welcome our Southeast Asian friends and neighbors, innocent and tragic victims of our government's flawed policy in Vietnam. They indeed are especially invited guests to the banquet of America.

We shake hands and break bread daily with Mexicans, Mexican-Americans, and the Californians who can truly say "this land is your land, this land is our land" north, south, east, and west of the Rio Grande.

I will skip down for a second so I can get this in 5 minutes here.

Immigrant bashing, unfortunately, Mr. Condit, is as American as apple pie, especially in times of economic crisis such as we are in. "The migrants are welcome until the crops are picked," says one health care worker. Perhaps the most poignant statement of the problem can be found in the words of recently mourned United Farm Workers founder Cesar Chavez when he said, "What a terrible irony it is that the very people who harvest the food we eat do not have enough food for their own children."

Horror stories abound, not the least of which is that there have been the drownings, 1974 through 1984, in irrigation canals in California of at least 11 farmworkers in their attempts to escape the feared and often hated migra, or Border Patrol. Raids on factories and worksites by the INS have been part of the picture also in recent years.

Last November, in nearby Farmersville in Tulare County, members of the U.S. Border Patrol teamed up with local law enforcement officers and raided the residences of alleged undocumented workers, kicking down doors and assaulting people in the early hours of the morning.

The scapegoating of immigrants for our Nation's or our community's social and economic problems is unfair and counterproductive. Not only is the United States reaping the benefit of highly educated foreigners—1.5 million joined the U.S. work force in the 1980's—but, "even immigrants with less education are contributing to the economy as workers, consumers, business owners, and taxpayers."

Some 11 million immigrants are working and they earn at least \$240 billion a year, paying more than \$90 billion in taxes. And that's a heck of a lot more than the estimated \$5 billion immigrants receive in welfare. I got those figures from Business Week.

Wayne Cornelius, one of the leading U.S. experts on immigration, a former professor at MIT and at Harvard and, for many years, director of UC San Diego's Center for United States-Mexican Studies, talks about the undocumented taxpayer making a substantial contribution to the public treasury: "They're paying into the Social Security Trust fund and usually are not taking anything out."

In his extensive research, Victor Rios, in 1982, found that international workers in the United States are not a drain on government social services. As he states:

On balance, the evidence indicates that international workers deliver more than they receive . . . migration is seen as a human response to conditions of uneven economic development and terms of exchange between nations . . . the strategy of the poor to deal with the constraints of their situation.

Rios concludes by saying that the international worker is an essential part of the global economic system and there cannot be solutions to the problem of international labor migration until the political economic relationship between developed and underdeveloped countries is restructured.

In conclusion, we are happy to share a thought from Tony Coelho, former Congressman from this Merced area, when he wrote, in 1981, in response to a letter of one of our members:

I am sure you will agree that the only humane and sustainable policy regarding immigration is one that accurately reflects American national interest and humanitarian values, protects the civil liberties and rights of citizens and immigrants alike, and recognizes the importance of trade and foreign assistance policies for developing countries.

I thank you very much for your time. I would like to say that this was written by Dr. Gregory Rienzo and Ms. Jenny Rienzo. Also, I was told that Ms. Ciuba, Judy Ciuba of Merced, has some comments to make.

Mr. CONDIT. We do not have any additional names on the list here but she is welcome to come if she only takes 5 minutes.

Thank you, Mr. Ruth, for your comments; it will be included in the record.

STATEMENT OF JUDY CIUBA

Ms. CIUBA. Judy Ciuba, 2842 Oleander.

I am sorry; I didn't know that I had to give my name. I assumed that, when she said we would have 5 minutes that it meant anybody that had some comments. But it will only take 5 minutes.

Mr. CONDIT. Thank you very much for your patience.

Ms. CIUBA. All morning long and for the first part of the afternoon, we heard about the overall impact of illegal immigrants on the State and on the county and on the city agencies. And I can appreciate the concerns that have been raised but I think that you need to hear and consider the rest of the story, the rest of the story on the overall impact of illegal immigration.

The financial benefit that this State, and especially this county, reaps from the individuals we are speaking of is very evident. If you can go to the mall, on any day you can see the people there with their children speaking the language. And I am not sure if they are illegal or if they are legal; we don't ask. But I bet you, if you took a poll, quite a few of them would be.

It seems as if we keep on approaching the issue from the wrong end, we are reacting instead of being proactive. And how do you do that? First, I think you need to ask why are they coming here? And, in particular, I am talking about the Hispanics. Basically, it is for survival. And survival because they can get a job.

And no amount of increasing your Border Patrol personnel, whether they are located on the peripheral of the State or in the

interior of our State, can stop that flow. No fortified curtain at the border check points, no matter how high you build it, will stop that wave. Why? Again, it is survival. They can get a job.

So increasing the funding for these types of things, personally, I don't think is going to answer the question.

As a country in the midst of this immigration turmoil, we have to come to some kind of agreement as to whether or not the benefits of illegal immigration outweigh the cost. I don't think that that side of the story has been addressed adequately so that, when you start making policies, I think you need to have all the facts laid out. I think, if you do, you will be surprised in the results and these outcomes.

And, if you find that it is not costeffective to have these illegal immigrants here, then we should get to the root of the problem, that is employers that hire these illegals. They come because they can get a job, an honorable goal; so let's not make them the scapegoat. They are the product of an economy and a society that wants tomatoes cheaply, or whatever the product may be. Let's be pretty frank about that.

In 1942, when my father came here as a bracero during the bracero program, we went to Mexico and we asked that they come to help us. And, as a bracero, my dad lived in a camp and he was fed adequately, he was housed adequately, they had medical care. And no longer does that happen to our people that are working in our fields.

In calling the Immigration Department, I wanted to see what the story was because I had lots of people tell me that it was impossible to get through. I have a masters' degree; I work at the college. I am educated. I called that number many times; I couldn't get through. When I finally got through, it went through a list and it said press this number if you want this, press that number if you want that and I went through it. And, after probably about 5 minutes, listening to it, it said "Thank you." and it hung up on me.

So I tried it again. I tried it three times; I tried it in Spanish. And it told me at the end, "Thank you," and hung up. I never got through. I never got through.

And, when I listened to it in Spanish, interestingly enough, the Spanish version was made by someone that did not speak Spanish as their first language, which I thought was real interesting.

I would also like to look into the possibility of dual citizenship because I know many people would do that. They feel some type of pride and connection to their mother country and that might be a possibility to increase in the number of legal residents here, or citizens.

Thank you.

Mr. CONDIT. Thank you very much.

I am really glad that you came up; I appreciate your information and your comments will be in the record.

And, because you were unaware that anyone notified us if they wanted to speak, if there is anyone else in the audience who would like to be on record, you are welcome to come up; we will give you a few minutes.

If not, I would like to officially thank the city of Merced, the city council, for allowing us to use the chambers today; they have been very kind to us to open this facility up to us.

And we appreciate all the witnesses, the people who were here all day long participating in this hearing; we thank you very much. We will accumulate this information and it will be available hopefully in a few months.

So thank you very much; and this meeting is adjourned.

[Whereupon, at 2:41 p.m., the hearing adjourned, to reconvene subject to the call of the Chair.]

THE IMPACT OF FEDERAL IMMIGRATION POLICY AND INS ACTIVITIES ON COMMU- NITIES

TUESDAY, AUGUST 31, 1993

HOUSE OF REPRESENTATIVES,
INFORMATION, JUSTICE, TRANSPORTATION,
AND AGRICULTURE SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 12:30 p.m., in the Samuel Greenberg Board Room, #1 World Way, Los Angeles Airport, Los Angeles, CA, Hon. Gary A. Condit (chairman of the subcommittee) presiding.

Present: Representatives Gary A. Condit and Stephen Horn.

Also present: Representative Xavier Becerra.

Subcommittee staff present: Shannon Lahey and Kathryn J. Seddon, professional staff members; and Diane M. Major, minority professional staff, Committee on Government Operations.

Mr. CONDIT. This is the fifth hearing on immigration conducted by this subcommittee since last February. In the past hearings we focused on the management of the Immigration and Naturalization Service, the cost impact of illegal and legal immigrants, proposals to generate revenue for INS, and the hiring of illegal immigrants by Federal contractors.

This subcommittee has adopted two reports based on these investigations. It comes as no surprise to those assembled here today that California has shouldered the burden and suffered the consequences of a failed immigration policy.

We are here to listen to local and State officials, to discuss their proposals for stopping immigration problems affecting our State. Both county and State officials will discuss cost impact on illegal immigration, with a particular emphasis on the criminal justice system. In some cases data that has been used to estimate cost impacts has been criticized by organizations and individuals. However, much of this criticism should be directed to the Federal Government.

Today I am releasing a GAO report that demonstrates that the INS is not meeting the requirements of the Immigration and Naturalization Act to provide information useful in evaluating and estimating the geographic distribution of undocumented residents.

Accurate data is crucial to State and local governments. It is crucial because illegal immigration affects education, health care, and law enforcement, areas of vital concern to the community. It is the

responsibility of the Federal Government to collect and to improve upon the quality of this data. It is a Federal responsibility to pay for the costs associated with illegal immigration.

During this time of State and local budget constraints and downsizing in local law enforcement, it is particularly troubling that our State and counties are assuming the full responsibility for the costs associated with undocumented residents who have committed felonies.

The Immigration Reform and Control Act of 1986 authorized the Federal reimbursement to States for the costs of incarcerating criminal aliens. California never received any funding or reimbursement, nor has California received an appropriate amount of resources from the Department of Justice and the INS to deal with the criminal and alien problem.

This hearing is an attempt to build a case for Federal reimbursement to counties and States, and to foster the management and administrative changes necessary to improve INS operations in California.

We have invited the Department of Justice to testify today on areas over which the INS does not have jurisdiction. Although the Department submitted a statement, they declined to send a representative. I hope this does not reflect an attitude by the Department that the problems faced by State and local governments are not important.

It is important that the Federal Government listen to the people who are most directly affected by the failure in Federal enforcement. The Department of Justice has ignored the INS too long. It has ignored the serious problems resulting from illegal immigration for too long, and in my opinion, it has ignored California for too long.

Today, we have a series of witnesses who will testify from the State to the local view on this failed immigration policy. We are going to start off with two distinguished witnesses that we are honored to have with us today. We have the attorney general, Dan Lungren. Dan, would you come up and have a seat. From the treasury of the State of California we have Kathleen Brown. Kathleen, would you come up.

Before I ask you to make your statements, I am going to turn to my colleague, Mr. Horn, who has been an active member of this subcommittee and who has been a great help in putting together the reports that we have put together on immigration policy under the subcommittee's direction, and I appreciate him being here today.

If Mr. Becerra, who will be here later, has an opening statement, he will also have the privilege of entering that into the record. Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. I commend you for this further activity of very precise, concise hearings on particular aspects of one of America's increasingly most difficult problems, and that's illegal immigration. I would like to include the formal written statement in the record and simply make a few comments.

A lot of us have been interested in this subject for two decades and have watched with interest as various proposals that have been suggested for two decades finally reach more of a consensus

in both political parties at the national and State level. There's no question in anybody's mind that more manpower is needed on our borders, and the House did respond just a few weeks ago, as the chairman knows, in voting \$60 million additional to add personnel to the Border Patrol.

There is also no question that we need a tamperproof, counterfeitproof Social Security card. Some of us suggested that in other capacities; in my case as vice chairman of the U.S. Commission on Civil Rights under four Presidents in the 1970's. I am delighted that President Clinton has endorsed that, and I hope that this year we can achieve that.

There is also no question that we need to work with the Government of Mexico and the Government of Canada and any other governments from which illegals come—regardless of the countries through which they pass, the ultimate destination seems to be the United States—and work with those countries to see, as one of our witnesses will testify, if the violations of the United States law, the punishment of that, can be consummated in the prison of the home country to save us all a quite a bit of money. That is growing in popularity on both sides of the aisle in Washington.

The last point. Your holding this hearing on data is a very serious matter. This is one of the most difficult areas to get reliable data. After each census the U.S. Commission on Civil Rights has held extensive hearings and analysis on the undercount of minority communities generally as a result of the census. As we have moved to a mail sample census as opposed to door-by-door counts that we were used to as a lot of us around this table were in our youth in the 1930's and 1940's, we have lost the accuracy that would come, particularly in urban America where you have 90 languages in the Los Angeles schools that are reflected at the home.

It's not just Hispanic illegal immigration. It's illegal immigration from Canada, illegal immigration from Mexico, of much of Latin America, and now all of us read in the papers about the boats of Chinese on the East and West Coasts. Not a new phenomena in terms of Chinese immigration to this country but one that we have to carefully analyze, get reliable data to know the full impact.

I think it's very clear to many of us that there is a drain on the State of California when they have to pick up the hospital costs as they do in Los Angeles County for births by illegal parents, many of whom come here just for that purpose. We can understand the motive. Our ancestors came here to get jobs.

The current human wave is coming here for the same reason. But the Nation still has to think of its own citizens, its own permanent residents, before it takes on the problems of the rest of the world. Thank you, Mr. Chairman.

[The prepared statement of Mr. Horn follows:]

OPENING STATEMENT FOR
THE HONORABLE STEVE HORN (R-CA/38)
INFORMATION, JUSTICE, TRANSPORTATION AND
AGRICULTURE SUBCOMMITTEE
HEARING ON CRIMINAL ALIENS
AUGUST 31, 1993

Mr. Chairman, immigration is undoubtedly one of the most problematic and misunderstood issues facing America. I commend you for holding these series of hearings so we may assess the impact of illegal immigration upon our criminal justice system and the costs associated with incarcerating undocumented aliens who commit major felonies. It is unfortunate that this hearing must take place, but the difficulties that illegal immigration present for the maintenance of a healthy economy are becoming increasingly apparent as the struggle for jobs, government services, and safe streets becomes more intense.

Today, we will address reports from the California State Legislature and the Los Angeles County Board of Supervisors. Both have concluded that the cost to taxpayers for services to illegal aliens and their children is immense -- \$1.5 billion to be exact.

In 1992, more than 1.2 million persons attempting to enter the United States illegally were apprehended and required to leave. Many of these individuals simply attempted to re-enter again the following day. This does not include the thousands of aliens who enter the country legally with temporary visas yet decide to stay, illegally, after their visas have expired. State and local governments incur the financial burden of this population, and California is by far the most heavily affected

state.

County officials tell us that 11 percent of the prison population in Los Angeles consists of illegal aliens and over 40 percent of those illegal aliens are re-arrested within a year after their release. In the Federal prison system 25 percent of all prisoners are aliens. A study conducted by Robert Holmes, the former Chief Consultant for the Joint Legislative Committee on Prison Construction and Operations, found "incarceration, parole, probation, police and court costs of aliens charged with major felonies in California during a typical year could easily reach half a billion dollars. Criminal justice costs to governments of all felonies and misdemeanors committed by illegal aliens during a year could reach two to three times that figure. This does not include social and non-governmental economic costs, which are difficult to calculate."

These statistics emphasize the need to reassess our immigration laws and today's hearing will help us further that process. I look forward to hearing from our witnesses as we devise solutions that address asylum reform, alien smuggling, border security and detention and deportation practices. California can lead the way on immigration reform but not without the help and cooperation of the U.S. Immigration and Naturalization Service and the Customs Service. We must all call upon our neighbors to the North and South to bear their fair share in incarcerating their citizens who commit felonies in our country.

Thank you, Mr. Chairman.

Mr. CONDIT. Thank you, Mr. Horn. We do welcome both of our witnesses here today. We appreciate you taking time out of your busy schedule.

We need you to help us make the case on the Federal level, that California is getting shortchanged when it comes to reimbursement for immigration policy. This is the fifth hearing, as we mentioned earlier, and we have tried to take a very thoughtful approach. We are going to hold probably another five hearings before we conclude with a view of this whole issue.

We know for sure, as Mr. Horn has mentioned, that California has been impacted. We know the financial aspect of this has not been dealt with in terms of reimbursement. We need both of you and the witnesses in the audience to help us make the case that reimbursement is an important part of immigration policy.

We will start off with Ms. Brown, who is the treasurer of the State of California. Welcome.

STATEMENT OF KATHLEEN BROWN, TREASURER, STATE OF CALIFORNIA

Ms. BROWN. Thank you very much, Congressman Condit, Mr. Chairman and Congressman Horn. I want to welcome you first back home to California and to Los Angeles. I always urge people to do some shopping while they are here, to help our State treasury.

Second, I want to compliment you on the four hearings which you have already held since March on the immigration issues here in California and on the impact in California. As treasurer, I appreciate the invitation today to discuss what I share with you as a matter of urgent importance to the taxpayers of our State and, frankly, to the Nation, of the economic impact of illegal immigration on California.

As State treasurer, I am very concerned about the burgeoning budgetary costs of illegal immigration. Today I would propose to discuss with you a real problem facing the State and what I consider a common-sense solution: deportation of illegal alien convicts in U.S. prisons and jails and negotiated agreements with foreign countries to ensure that they serve out their full sentences.

Right now, up to 14,000 illegal aliens are behind bars in California State prisons. That is enough undocumented aliens and criminals to fill four State prisons to almost twice their design capacity. Another 10,000, 15,000 alien convicts are serving time in county jails. Each year California spends more than \$500 million imprisoning these illegal alien criminals. That's money I believe we should be spending to meet the needs of hard-working Californians.

In these tight fiscal times we cannot afford to waste a single tax dollar. That's why I believe the United States should negotiate agreements requiring that illegal alien convicts serve their full sentences in their own countries. Again, it just makes common sense.

This issue is not about illegal immigration alone. It's also about law enforcement, as I am sure Attorney General Lungren will speak to. Our prisons and jails are so overcrowded we are often forced to release criminals onto the streets before they have served their full sentences. That just doesn't make sense, when 15 percent

of our State prison space is taken up by inmates who should not be here in the first place.

In July I wrote to President Clinton, urging him to develop a new policy. Every time the United States of America negotiates a treaty with another country we should seek a side agreement requiring that other country to take back and imprison its nationals convicted of crimes in the United States. Treaty negotiations offer a real opportunity for the United States to reach agreement on the deportation of illegal alien criminals.

Many treaties contain U.S. economic aid, substantial trade concessions, or security guarantees. Under these circumstances it's entirely reasonable to ask signatory countries to accept and to enforce prisoner transfer agreements.

Having illegal alien convicts serve out their sentences in their own countries is hardly unprecedented. In 1977 and again in 1978, the United States signed bilateral prisoner transfer treaties with Mexico and Canada. Since then the United States has reached similar agreements with a large number of other nations. However, these treaties require that the prisoner ask for a transfer and that both governments consent, conditions that are rarely met.

Between January 1988 and April 1993, for instance, only 18 of 130 criminal aliens requesting transfer from California facilities were in fact deported. If my proposal were adopted, California would have to change certain State laws to conform with new international prisoner transfer assignments and agreements.

The State would have to eliminate the existing requirement of prisoner consent prior to transfer, and rather than allow the Governor broad discretion in deciding who is transferred, we would need to establish rules to ensure that every prisoner who meets certain basic and minimal criteria outlined in the new treaty would be turned over to the Immigration and Naturalization Service for deportation.

As you know, the most prominent treaty under consideration is NAFTA. In July, I proposed that the United States link approval of the Free Trade Treaty to new prisoner transfer agreements, requiring Mexico and Canada to take back their nationals behind bars in United States prisons and jails.

While it may or may not be too late to include such transfer agreements in the NAFTA process, I continue to believe that we must use all possible leverage to compel Mexico, Canada, and all other countries to take back their citizens in our prisons. I urge the Congress to take a leadership role, and push for new agreements with all countries to resolve this costly problem.

Before closing, I would also like to voice my support for a recommendation made previously to the subcommittee and referred to already this morning. That is, that the U.S. Congress should take immediate steps to reimburse California and affected States for the cost of incarcerating illegal convicts as well as, as the Congressman indicated, all other costs, as well as indicated by the chairman, related to illegal immigration as well as legal immigration.

As you know, the costs and burdens of illegal immigration have fallen disproportionately on our State, where more than one-half of the Nation's documented aliens reside. In these tough times and in

fairness, Congress must take action to ease the strain.

Thank you for the opportunity to speak today on this pressing problem. At the appropriate time, I would be happy to respond to questions.

[The prepared statement of Ms. Brown follows:]

TESTIMONY OF
CALIFORNIA STATE TREASURER
KATHLEEN BROWN

BEFORE THE
U.S. HOUSE SUBCOMMITTEE ON INFORMATION, JUSTICE,
TRANSPORTATION AND AGRICULTURE,
COMMITTEE ON GOVERNMENT OPERATIONS

LOS ANGELES, CALIFORNIA

AUGUST 31, 1993

TESTIMONY OF
CALIFORNIA STATE TREASURER
KATHLEEN BROWN

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, WELCOME TO LOS ANGELES. LET ME FIRST COMPLIMENT YOU ON THE FOUR HEARINGS THIS SUBCOMMITTEE HAS HELD SINCE MARCH ON IMMIGRATION ISSUES AND CALIFORNIA. I APPRECIATE YOUR INVITATION TODAY TO DISCUSS A MATTER OF URGENT IMPORTANCE: THE ECONOMIC IMPACT OF ILLEGAL IMMIGRATION IN THIS STATE.

AS CALIFORNIA STATE TREASURER, I AM VERY CONCERNED ABOUT THE BURGEONING BUDGETARY COSTS OF ILLEGAL IMMIGRATION. SO TODAY, I WOULD LIKE TO DISCUSS A REAL PROBLEM FACING THIS STATE AND A COMMON SENSE SOLUTION: DEPORTATION OF ILLEGAL ALIEN CONVICTS IN U.S. PRISONS AND JAILS AND NEGOTIATED AGREEMENTS WITH FOREIGN COUNTRIES TO ENSURE THEY SERVE OUT THEIR FULL SENTENCES.

RIGHT NOW, UP TO 14,000 ILLEGAL ALIENS ARE BEHIND BARS IN CALIFORNIA STATE PRISONS -- THAT'S ENOUGH UNDOCUMENTED CRIMINALS TO FILL FOUR STATE PRISONS TO ALMOST TWICE THEIR DESIGN CAPACITY. ANOTHER 10,000 TO 15,000 ALIEN CONVICTS ARE SERVING TIME IN COUNTY JAILS.

EACH YEAR, CALIFORNIA SPENDS MORE THAN \$500 MILLION IMPRISONING THESE ILLEGAL ALIEN CRIMINALS -- THAT'S MONEY I BELIEVE WE SHOULD BE SPENDING TO MEET THE NEEDS OF HARD-WORKING CALIFORNIANS.

IN THESE TIGHT FISCAL TIMES, WE CANNOT AFFORD TO WASTE A SINGLE TAX DOLLAR. THAT'S WHY I BELIEVE THE UNITED STATES SHOULD NEGOTIATE AGREEMENTS REQUIRING THAT ILLEGAL ALIEN CONVICTS SERVE THEIR FULL SENTENCES IN THEIR OWN COUNTRIES -- IT'S JUST COMMON SENSE.

THIS ISSUE IS NOT JUST ABOUT ILLEGAL IMMIGRATION. IT'S ALSO ABOUT LAW ENFORCEMENT. OUR PRISONS AND JAILS ARE SO OVERCROWDED, WE ARE OFTEN FORCED TO RELEASE CRIMINALS ONTO THE STREETS BEFORE THEY HAVE SERVED THEIR FULL SENTENCES. THAT JUST DOESN'T MAKE SENSE WHEN 15 PERCENT OF OUR STATE PRISON SPACE IS TAKEN UP BY INMATES WHO SHOULD NOT BE HERE IN THE FIRST PLACE.

IN JULY, I WROTE PRESIDENT CLINTON URGING HIM TO DEVELOP A NEW POLICY: EVERY TIME THE UNITED STATES NEGOTIATES A TREATY WITH ANOTHER COUNTRY, WE SHOULD SEEK A SIDE AGREEMENT REQUIRING THE OTHER COUNTRY TO TAKE BACK AND IMPRISON ITS NATIONALS CONVICTED OF CRIMES IN THE UNITED STATES.

TREATY NEGOTIATIONS OFFER A REAL OPPORTUNITY FOR THE UNITED STATES TO REACH AGREEMENT ON THE DEPORTATION OF ILLEGAL ALIEN CRIMINALS. MANY TREATIES INCLUDE U.S. ECONOMIC AID, SUBSTANTIAL TRADE CONCESSIONS, OR SECURITY GUARANTEES. UNDER THESE CIRCUMSTANCES, IT IS ENTIRELY REASONABLE TO ASK SIGNATORY COUNTRIES TO ACCEPT AND ENFORCE PRISONER TRANSFER AGREEMENTS.

HAVING ILLEGAL ALIEN CONVICTS SERVE OUT THEIR SENTENCES IN THEIR OWN COUNTRIES IS HARDLY UNPRECEDENTED. IN 1977 AND 1978, THE UNITED STATES ENTERED INTO ITS FIRST BILATERAL PRISONER TRANSFER TREATIES WITH MEXICO AND CANADA. AND SINCE THEN, THE UNITED STATES HAS SIGNED SIMILAR TREATIES WITH OTHER EUROPEAN NATIONS.

HOWEVER, THESE TREATIES REQUIRE THAT THE PRISONER ASK FOR A TRANSFER AND THAT BOTH GOVERNMENTS CONSENT -- CONDITIONS RARELY MET. BETWEEN JANUARY 1988 AND APRIL 1993, FOR INSTANCE, ONLY EIGHTEEN OF 130 CRIMINAL ALIENS REQUESTING TRANSFER FROM CALIFORNIA FACILITIES WERE DEPORTED.

IF MY PROPOSAL WERE ADOPTED, CALIFORNIA WOULD HAVE TO CHANGE STATE LAWS TO CONFORM WITH NEW INTERNATIONAL PRISONER TRANSFER AGREEMENTS. THE STATE WOULD HAVE TO ELIMINATE THE EXISTING REQUIREMENT OF PRISONER CONSENT PRIOR TO TRANSFER. AND RATHER THAN ALLOW THE GOVERNOR BROAD DISCRETION IN DECIDING WHO IS TRANSFERRED, WE WOULD NEED TO ESTABLISH RULES TO ENSURE THAT EVERY PRISONER WHO MEETS CERTAIN MINIMAL CRITERIA OUTLINED IN THE NEW TREATY WOULD BE TURNED OVER TO THE IMMIGRATION AND NATURALIZATION SERVICE FOR DEPORTATION.

AS YOU KNOW, THE MOST PROMINENT TREATY UNDER CONSIDERATION IS NAFTA, THE NORTH AMERICAN FREE TRADE AGREEMENT. IN JULY, I PROPOSED THAT THE UNITED STATES LINK APPROVAL OF THE FREE TRADE TREATY TO NEW PRISONER TRANSFER AGREEMENTS REQUIRING MEXICO AND CANADA TO TAKE BACK THEIR NATIONALS BEHIND BARS IN U.S. PRISONS AND JAILS.

WHILE IT MAY BE TOO LATE TO INCLUDE SUCH TRANSFER AGREEMENTS IN THE NAFTA PROCESS, I CONTINUE TO BELIEVE WE MUST USE ALL POSSIBLE LEVERAGE TO IMPEL MEXICO, CANADA AND ALL OTHER COUNTRIES TO TAKE BACK ITS CITIZENS IN OUR PRISONS. I URGE THE CONGRESS TO TAKE A LEADERSHIP ROLE AND PUSH FOR NEW AGREEMENTS WITH ALL COUNTRIES TO RESOLVE THIS COSTLY PROBLEM.

BEFORE CLOSING, I WOULD ALSO LIKE TO VOICE MY SUPPORT FOR A RECOMMENDATION MADE PREVIOUSLY TO THIS SUBCOMMITTEE: THE UNITED STATES CONGRESS SHOULD TAKE IMMEDIATE STEPS TO REIMBURSE CALIFORNIA AND Affected STATES FOR THE COSTS OF INCARCERATING ALIEN CONVICTS.

AS YOU KNOW, THE COSTS AND BURDENS OF ILLEGAL IMMIGRATION HAVE FALLEN DISPROPORTIONATELY ON CALIFORNIA, WHERE MORE THAN ONE-HALF OF THE NATION'S UNDOCUMENTED ALIENS RESIDE. NOW, IN FAIRNESS, CONGRESS MUST TAKE ACTION TO EASE THE STRAIN.

THANK YOU FOR THE OPPORTUNITY TO SPEAK TODAY ON THIS PRESSING PROBLEM. AND I WELCOME YOUR QUESTIONS.

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Mr. CONDIT. Thank you. We are also delighted that Mr. Lungren has taken time to be here today. He has been very active on this issue. We are delighted to have the attorney general of the State of California, Mr. Lungren.

STATEMENT OF DAN LUNGREN, ATTORNEY GENERAL, STATE OF CALIFORNIA

Mr. LUNGREN. Thank you, Mr. Chairman, and thank you, Congressman Horn. First of all, I think we ought to make clear that there's no mistake here. The greatest part of the crime problem in California is not caused by illegal aliens. The greatest number of illegal aliens who come to California or other parts of the United States are not involved in criminal activity other than their illegal entry into the United States.

But at the same time we have to realize that here in California our criminal justice system is in a near crisis, brought about by budgetary constraints and brought about by a lack of commitment of the resources, men and women in the uniform, and other parts of the system that are necessary to take care of our problem. So, we have to look at every aspect of it. This certainly is one that needs our assistance.

I bring you a little bit of a historic perspective, as one who was in the Congress working on this issue and one who was the Republican floor manager of the Immigration Reform and Control Act. I always like to mention that it was the Immigration Reform and Control Act. Oftentimes people drop the last part of it, Control Act.

In fact, the Federal Government has dropped the last part of it. There were two major parts of that bill.

One of them was the legalization program of those who had been here for a long period of time illegally but gained some roots in our communities. A decision was made that a legalization program made sense. It was always based on the premise that that would be the one and only legalization program, and that we would henceforth enforce the law.

While the legalization program was a tremendous success and the INS should be applauded for the work they did, there were a lot of doubters out there that said they couldn't do it.

The second part of it, the enforcement part, has completely fallen apart. The enforcement part was premised on the fact that we would have employer sanctions and they would be utilized. We have never enforced that. We have never committed the amount of resources necessary to do the job. I believe there's an authorization of 6,000 Border Patrol agents, and we have never funded above 4,000. Even that has never been fully funded, when you realize the number of people who leave and so forth.

There's no doubt in my mind that the Federal Government has failed to keep its commitment, and therein lies the source of our biggest problem.

Also in that bill we had a provision which authorized the Federal payment of costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State. As you know, other than some funding that went to Florida for the incarceration of Cuban nationals, no money has come forth. California has received zero.

The cost to the State prison system in fiscal year 1993-1994 is estimated at \$350 million and the cost to the California Youth Authority is estimated at \$120 million for incarcerating those who are here illegally and have committed crimes or are otherwise considered wards of the State. That doesn't include the cost associated with prosecution, the cost to the city and county jails, the pretrial or sentences for 1 year or less.

We have a major problem here. You know the figures already. Approximately 14 to 16 percent of those in our California prisons are believed to be here illegally. At least 8 percent of those in California Youth Authority are here illegally. Between 9 and 11 percent are in our California county jails.

In some areas the challenge is even greater. Some statistics would suggest that the locals are losing control. In Santa Ana, I have been informed by the police department there that 60 percent of all felonies are committed by people who are here illegally; that is, illegal aliens. But because of the lack of resources, illegal aliens who are charged with serious misdemeanors in many cases are, like other people, charged with serious misdemeanors, not in fact imprisoned. They are cited and released. You can imagine what percentage of them return, any more than the percentage of the people who return who are here illegally.

In fact, 75 percent of people who are cited and released for commission of misdemeanors never show up for court at time of trial.

I don't have any politically sexy proposal to give you. I think what we need to do is go back to the fundamentals. I would suggest that we fulfill existing obligations, we direct resources and already available programs and departments, and that we refine the law. The greatest single failure of the Federal Government in my judgment is its failure to enforce the employer sanctions. That is premised on the fact that we would have some means of identification so that employers would not be put at a disadvantage, but nonetheless exercise a good faith review of documents.

One of those documents is a Social Security card. The vast majority of employers attempt to comply with the law and avoid the hard sanctions that I fought for, but counterfeit IDs are pretty easily obtainable, as you know. Some employers use the 12 foot rule. If it looks good from 12 feet, it must be OK. We need to work on that.

I would underscore what Congressman Horn has said. We must mandate and issue tamperproof Social Security cards. We have counterfeitproof drivers' licenses in California which is wonderful, except they are premised on a Social Security card. You get a phony Social Security card and you can come in and get a counterfeitproof California driver's license. Then you are really doing well.

Mr. HORN. Now you can vote.

Mr. LUNGMREN. In many cases there's a possibility that might be available to you. I would also suggest that we establish an 800 number, where employers can verify the authenticity of a card, the status of the cardholder, and whether they are legally employable.

If MasterCard and Visa operated the same way the U.S. Government did with Social Security cards, they would be broke tomorrow. I don't understand why we can't get the INS and the Social Security system into the 20th century, as we are about to enter

into the 21st century. That may not be a sexy proposal, as I say, but I think that is fundamental to the proposition that we need.

We had a lot of arguments, as you know, when you were with the Civil Rights Commission and I had on the floor of the House when we were dealing with IRCA, that somehow this was a national ID card, that somehow this was akin to terrible deprivations.

My point is that if we are truly going to work on this, and the vast majority of people come to California in the United States to work, you have to do something about the magnet. As long as we aren't going to do something about the magnet, we can do anything else we want to do, but essentially the Federal Government is not going to really deal with the problem.

There has been a lot of focus on what the States ought to do. We have to recognize, the Constitution gives that responsibility to the Federal Government and the Federal Government has really boot-ed that responsibility. I would suggest a couple of other things.

Provide the full contingent of Border Patrol agents authorized but never funded, at least increase that by 2,000. Second, make sure that California gets its fair share. When I came to the Congress I found that most people on the Immigration committees were from New York, New Jersey, and Pennsylvania. You shouldn't be surprised that they think most people come to the United States under the watchful gaze of the Statue of Liberty. They were just 30 or 40 years behind the times.

We finally got California participants in these things, but the Congress has not yet shifted and the INS has not yet shifted. I bet that if you did a study of the per capita number of Border Patrol and INS officers in New York versus California or versus the case-load, you would find that they are still behind the times in dealing with that.

Second, in talking with some people off the record in the INS, we are not, despite what is being said as a Federal Government, pros-ecuting those who deal in human cargo. We are largely not pros-ecuting smugglers that bring people across the southern border. The reason for this is that they do not have the holding space they claim, to keep the people that are arrested and the material wit-nesses. You must keep the material witnesses because if you send them back to Mexico and you have the trial, the defendant said you had the material witnesses in your custody, you let them go, they have evidence that would allow me to get off this and so forth.

The INS has 1,600 holding cells, I have been told, and 800 are occupied by would-be Chinese illegal immigrants captured off the coast and in ports of California. I am reminded of the problems you are having in the Congress dealing with military base closures. While I would not suggest any particular base, it does seem to me that there is available space at different locations. The excuse that they don't have the holding facilities is not there.

Next, I would tell you that in my travels around the State in some of the smaller counties in California that have jails, they have available jail space and they have in the past been paid by the INS to hold detainees there. In a number of those counties they have lost that business over the last 1½ years, with no real expla-nation.

At your June 2 hearing, Jack Shaw from the INS testified very simply the goal of his service: Identify, locate, deport criminal aliens as expeditiously as possible. They are not doing that. They are not doing that. They have increased their ability to do it, and are still not doing that.

Right now there is no guarantee in the State of California that someone serving their time for a serious misdemeanor or felony—serving some time in jail space—is necessarily going to have the INS respond to that situation, have the hearings in a timely fashion so that that person can be returned to their country of origin when he or she has finished their time. That, to me, has to be done.

They presented to you in their June 2 meeting the idea that they have these hearings that take place, two State prisons in Los Angeles County Jail. We have 57 other jails in California. We have at least 10 other prisons, although the prison system does try to get those down to 2 of those to assist with them.

The other thing they mentioned at your June 2 meeting was that they were proud of a program they had in five States called operation double action, where they went out and got people who were out on parole and probation and gone through the criminal justice system. They had been serving their sentence for serious crimes such as murders, rapes, and drug offenses. They got 200 in five States, 24 in Los Angeles, and they were so proud of that.

According to testimony that I have seen, at least one-half of the people turned over to them by the California penal system in the last year were never acted upon, something on the order of 2,700. We spend all of our money once they are out on parole and on probation to go out and round them up when we have opportunity to deal with those people that we have in the system. We need to deal with those in the prison system and in the jail system, but we also have to recognize this: In California, 79.9 percent of felons never make it to State prison. They have an alternative sentence. It's 79.9 percent.

In Los Angeles County alone, 30 percent of convicted felons serve zero jail time. These are people that are given some straight probation. We have to deal with that situation, too. It seems to me that when they serve zero jail time rather than have them on some supervised probation or parole, they ought to be in the INS and the INS ought to send them back to their home county.

We also should make it more difficult for people, particularly from our close countries, from coming back here. Right now, as you know, we deport many of them to the border. It seems to me that we have some excess airplanes in the military that might be taken over by the INS. We can fly people to Mexico City instead of down to the border, and make it a little more difficult for them to come back.

I guess what I am saying to you is this: We cannot allow the Federal Government to get off the hook. It has the constitutional obligation and authority to deal with immigration law. I have worked with law enforcement in California to ensure closer cooperation, not that local law enforcement becomes the arm of the INS. We don't want that to happen. Cooperation, where someone is identified as probably being an illegal alien, that information given to

the INS in a timely fashion. We can do that. We can't do the job for the Federal Government.

Those are some proposals I have. I would be happy to talk to you about the prisoner transfer program because I have some thoughts on that. I would be happy to answer your questions.

Mr. CONDIT. Thank you very much. We are not going to keep both of you here for a long time. We do have some questions we would like to ask you, and then if it goes too long, we will submit the balance of our questions in writing and hope that you would respond to them, to help us build this case that we are trying to build.

I would like to get the treasurer to respond. Mr. Lungren mentioned using military bases. I guess the proposal has been to send undocumented residents who have committed felonies to Mexico and house them in that country and have some kind of agreement.

In absence of that agreement and from that happening, is it possible that we could use a military base to house convicted criminal aliens, in your opinion, then the Federal Government would pick up the total cost to house those people?

Ms. BROWN. In any way to get the Federal Government to pick up its obligation, I think that is the direction to go in. I think it is a suggestion certainly appropriate to be put on the table.

Obviously, better that the individual's own country carry that cost. If you are looking for a two step or three step process, I would certainly endorse that two step process.

Mr. CONDIT. You have also testified about using NAFTA to negotiate the prisoner transfer program. What do you think about using NAFTA to cover other areas of immigration as well, other burdens placed on border States as well?

Ms. BROWN. Immigration impacts the economies of all countries concerned. I have specifically focused in on the illegal immigration felon, because it is an identifiable cost and it is such a common sense approach to this problem. My concern has been that the individuals serve their time in their own country and have put that as a priority.

Clearly, there may well be other issues. This is one that I think is at the top of the agenda, in my mind.

Mr. CONDIT. Mr. Lungren, do you have a response to that?

Mr. LUNGREN. I don't like to throw cold water on an idea that a lot of people are expressing, but I have some real concerns about this, because our office is involved in hundreds of cases right now with actions being brought by prisoners in California State prisons. There are similar cases brought by prisoners in California county jails throughout the State of California.

We are in many cases responding to prisoner lawsuits based on the Federal Constitution, the eighth and 14th amendments under the cruel and unusual punishment clause. While we might not think that certain things are cruel and unusual, there have been standards that have been erected by the judges, sometimes going down to available floor space, sometimes going down to the temperature of meals.

If you have been to Pelican Bay, our toughest prison up north of Crescent City, they literally put a thermometer in the meal and

register exactly what that temperature is so that they are not in violation of some Federal court order.

The tremendous problem that we have in negotiating a treaty with anybody else and mandatorily sending our prisoners to a foreign country is the U.S. Constitution. We cannot give up the rights that prisoner might have by giving them to another country. As much as I would like to send them there, I see the lawsuits that I have right now—let me put it this way.

If Federal judges believe they have the right to come in and impose obligations on county and State facilities in terms of exactly how you treat prisoners, do you really think they are going to allow us to send prisoners involuntarily to foreign countries to serve their time? Voluntarily you can do that, but the very reason why most don't volunteer to go is presumably they don't like the conditions there.

While there has been a lot of talk about this on a lot of different levels for a long period of time—I remember dealing with this in the Congress before—I must at least voice my concern about what we are going to run into. Second, I would say when do you make the transfer. Do you make the transfer effective before or after someone has dealt with all of their appeals.

Presumably, if they are in another country we don't have jurisdiction over them at that time. How could they then make sure that their appeal would be before the relevant court in the State of California or in the Federal Government?

As you know, I am not one who looks kindly upon successive appeals. We have fought that, and hopefully with your assistance in the Congress we might be able to do something about Federal habeas corpus. The fact of the matter is, that does provide some very difficult circumstances for us. That's why instead of looking at—I first looked at that and said why can't we expand the prisoner transfer proposals that are already on the table; that is, the ones that exist by way of treaty.

You look at the voluntary nature of it and then you realize why we have the voluntary nature, probably because of the Constitutional impediment. Are there things that we can do to encourage people to voluntarily go back? I suppose we could. The fact of the matter is that most of them do not want to, No. 1. No. 2, we have in California a situation where we have resisted sending some prisoners back to other countries because we cannot get a guarantee that they would necessarily hold them for the same period of time that we would hold them.

By terms of the treaty, one is discharged from the jurisdiction of the United States to the jurisdiction of the other country. That means they have the final decision there.

While it is an intriguing proposal and one that I at first thought we might be able to work something on, the Constitution is the largest impediment there.

Mr. CONDIT. Mr. Lungren, the Department of Justice has submitted a statement regarding the transfer treaty program. On page 5 the Department makes the following statement: "The State of California determined that the prisoners did not meet treaty requirements based on its interpretation of the treaty as well as its own

regulation that prohibits the transfer of the offenders who had resided in the United States for more than 5 years."

Have you looked at this matter to determine if California can change the practice to improve the number of people eligible for transfer under the existing treaty?

Mr. LUNGREN. There are two things they are saying there, I think. One is what are the terms of the transfer obligation under the treaty. One of those is that the inmate shall not have lived in the United States for more than 5 years prior to the offense. That also works with respect to Mexico and other countries as well.

The idea there really is that someone who may still be a resident and may still have citizenship of another country but basically is living in this foreign country for all intents and purposes has indicated that they are going to stay there, ought to continue to reside in that particular place when they have done a crime there and have served their time there.

The second part is, have we made accurate determinations that someone in fact has not lived more than 5 years prior to the incident offense. While we represent the Department of Corrections in litigation, we don't make those determinations. Those determinations are made by the California Department of Corrections. I am not certain we would want to change that.

The only way, as I understand it, under the treaty you could do it is if someone had evidence of their intent to return to their home country sometime during that 5 year period of time, even though they had been here before. Again, I am not certain I would want to change that because someone basically is part of that community and has been there and commits the crime there in a sense to let them go back to another country where you are not totally certain they are going to serve their time may not be something that we want to do.

Mr. CONDIT. Are you satisfied with the help the State has received from the Department of Justice in making existing programs workable?

Mr. LUNGREN. If you are talking about the U.S. Department of Justice, no.

Mr. CONDIT. Yes.

Mr. LUNGREN. Let me say this, there are many very good men and women in the Department of Justice, the Border Patrol, and INS—I worked with them for 10 years. I would point the finger at the Congress. You three gentlemen were not there when most of the fingers should be pointed, so you can relax.

The fact of the matter is, the Congress has not made the commitment of resources necessary. It creates the conditions in California to make matters worse. Then, what I have always been concerned about is, you have an increasing amount of discrimination directed to people who look to someone else precisely because people think that the whole system is out of control.

The Federal Government, in my judgment, by not doing the job not only doesn't help us in a systematic way with our economic impact but also I think it does a disservice to those people who are here, first generation, second generation or whatever from all sorts of backgrounds, who might have discrimination visited upon them because of a general idea that the laws are not effective. Therefore,

anyone who looks foreign must be here illegally. That, to me, is one of the most depressing and demoralizing parts of not enforcing the law.

Mr. CONDIT. Ms. Brown, do you have any comments to the Justice Department, whether or not they have been responsive to working with the States?

Ms. BROWN. I think that the attorney general has had much more experience in dealing with the Justice Department than I have and would support his comments, that we need to promote and encourage and demand as much cooperation as we can get. I think it needs to be forthcoming, particularly given the impact.

Mr. CONDIT. The Justice Department indicates that a transfer is usually initiated by the prisoner, as both of you have indicated. In California, I believe there is a law requiring that the prisoner initiate the transfer. We also understand that money was appropriated last year to be used to notify prisoners that they could request such a transfer. However, it was blue-penciled by the Governor. Do you know why?

Mr. LUNGREN. I think it was an obligation placed on the Department of Corrections to inform them of that right. It was another obligation that they felt that with everything else they have to do, they didn't want to be required to do that.

As you know, the Department of Corrections, while it has done fairly well under the budget, is still overburdened at this time. I think that would be their answer.

Mr. CONDIT. Would this be considered an unfunded mandate that should be reimbursed by the Federal Government?

Mr. LUNGREN. As you know, right now the Federal Government is requiring all of us to come up with a system that notifies INS within 30 days of a conviction, and there is some funding available. I would just tell you our system is in great difficulty now in terms of getting that information out to local law enforcement.

I hate to tell you that we are over 100 days late right now in getting that information on our California system, so that local law enforcement, when they access that, can find out if they have someone who has been arrested and convicted within the last 100 days.

If you are asking, could we use some more funding to take care of those problems for our basic needs, yes, we could. Is that all impacted upon us as a result of illegal immigration, no, it's not.

Mr. CONDIT. Let me ask you one question and then I am going to let Mr. Horn do a series of questions. Have you thought about due process in this prison transfer to other countries?

For example, if we had a treaty with Mexico or any other country, then I am assuming that American prisoner citizens could transfer under the treaty here.

Mr. LUNGREN. Right.

Mr. CONDIT. Once we get them here, we don't have the same judicial system, and we may be concerned that they did not receive due process. What kind of pressure does that put on you and the legal system to maybe reconsider the case, or would you have the authority to do that?

Mr. LUNGREN. The systems are reciprocal, in the sense that if we were to make exceptions once people got over here to any great de-

gree, they could do the very same thing. The credibility under which the treaty was enacted and implemented would be gone.

Obviously, under the terms of the treaty the transfer discharges the prisoner from the State or Federal prison to the foreign country and the foreign country assumes jurisdiction. In that sense we are somewhat free to do what we will with the person. But the consequences of that would be that you would undermine the treaty for the future if you did that in any substantial way.

Mr. CONDIT. Before Mr. Horn begins, Mr. Becerra has joined us. We appreciate you being with us today. Beginning at the next panel if you want to make an opening statement, I will let you do that. Then you will have a series of questions to this panel in a few minutes.

Mr. BECERRA. Thank you.

Mr. CONDIT. Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. Let me cover two areas: one, the incarceration in another country of prisoners illegally entered into this country who have committed a crime here. Let's take Mexico as an example, and I would like both of your responses to these questions.

Mexico has no death penalty. If we transferred criminals who have committed a capital crime there, what is your feeling in doing that? Would you favor that, when you realize that Mexico has no death penalty and there is the possibility of parole if the Mexicans take that prisoner unless we have some agreed-upon treaty? The attorney general's comments are probably accurate that that would face a constitutional test in this country by the Federal judiciary.

Even if we have a treaty to limit Mexico's freedom in paroling individuals, how do you see dealing with that?

Ms. BROWN. I think when you negotiate the terms of such a treaty, you would make provisions for the reciprocal enforcement of these sentences that were imposed. That would entail and include the full range of possibilities.

Mr. HORN. If it's a death penalty case, would you believe that that individual should remain in California to carry that out, or would you transfer that individual to Mexico where they have no death penalty and aren't about to enforce ours, I would think?

Ms. BROWN. I think that's a fair question that one would have to examine. The possibility of serving a life sentence without possibility of parole would be another alternative.

Mr. HORN. In other words—

Ms. BROWN. The vast proportion of the cases, at least here in California, are not of a capital nature. In terms of impact on the State if one were to negotiate a provision that might have exceptions for capital cases, it would still provide from the perspective of cost to California vast relief to focus in on all others.

That could be a subject of determination and negotiation within the treaty.

Mr. HORN. Given Mexico's current laws, though, would you say we should make an exception and illegal aliens who commit capital crimes here would remain in California prisons? How do you feel? Is it just best to leave them here in California and the judicially determined fate would await them here, and they wouldn't have

the option of going to Mexico where there is no capital punishment?

Ms. BROWN. I think that those particular cases might well require a special exemption and exception.

Mr. HORN. OK, Attorney General, how do you feel about that?

Mr. LUNGREN. I would suggest that you wouldn't include that. That, in fact, is one of the real sticking points in extradition treaties, where it took us 6 years to get a particular individual charged with a number of murders to California back from Canada because they don't have a death penalty. A determination by their supreme court ultimately was to allow them to come back to California for trial.

But they had a tremendous debate over whether that so shocked the conscience that it was unconstitutional. I think you would have to make exceptions for those kinds of crimes, and I would never suggest that we would easily allow someone to go to another country to serve life without possibility for parole without some ironclad guarantee that that's what it would be.

In California we have too many victims who feel that they were taken by the system when they thought the person who had murdered someone in their family was going for life without possibility of parole, we found so many loopholes and exceptions.

The fact of the matter is, we lose jurisdiction when we transfer them to another country. That ought to be fully understood. When you make these decisions we ought to do it with eyes open, knowing that that's what is going to happen.

I don't want to give any idea that we are giving a free ride or lesser penalty to someone who commits a crime because they happen to be here from another country and they are going to get better treatment somewhere else. Obviously, most of them don't believe that right now, or they would be voluntarily asking to go somewhere else. We would then have to make the decision as to whether we would OK it.

Mr. CONDIT. Mr. Horn, can I interrupt for just one moment?

Mr. HORN. Sure.

Mr. CONDIT. Wouldn't the fact that whatever country you had a treaty with and you are transferring prisoners to, if that country didn't have a death penalty, common sense would dictate that you just do not transfer in those cases.

Mr. LUNGREN. Sure.

Mr. CONDIT. In addition to that, what percentage of criminal aliens do we have in prison today that are on death row; do you know?

Mr. LUNGREN. We have never done a study of that, as far as I know.

Ms. BROWN. With respect to capital crimes, whether it's death row or life in prison without possibility of parole, it's the smallest percentage of those that are incarcerated in California. We can provide you with those numbers.

[The information follows:]

According to the California Department of Corrections, 2.3% of INS holds were on prisoners convicted of 1st degree murder, as of 1/31/92. Source: "The Criminal Alien," California State Legislature Joint Committee on Prison Construction and Operations, March 1993.

Mr. CONDIT. I am sorry, Mr. Horn.

Mr. HORN. That's quite all right. Another area, Mr. Attorney General, on law enforcement is the following. Originally let's say 30 or 40 years ago, if you had an illegal alien in this State, both State police and local police forces would pick them up and turn them over to INS. Something happened in the last 20 years or so, either by court cases, Federal Government action, that sort of says you don't have to do anything if you are a local police officer or State police officer. It's the burden of the Federal Government to do it.

You have lived through that period, and I wonder if you would enlighten us. I remember reading some of those cases at one time. Why did we get into that policy? Because we have thousands of people in law enforcement that simply aren't being asked to help on the illegal alien problem.

Mr. LUNGREN. I think we did it for two reasons. One is that literally under the Constitution, the immigration policy and enforcement of that policy is the obligation of the Federal Government. It is not the obligation of local and State government.

As you know, you can't pass new laws that basically make a determination of citizenship or a legal right to be in the United States by a State because only the Federal can do that. I think that's one.

No. 2 is, I think there was a hue and cry about people in law enforcement being asked to do something they weren't trained to do. That is, they are not trained as immigration officers. Their reasons for making decisions and arrests are different than why you would take someone in who was here illegally.

We went from that point to a point where in some communities we built up a wall between local law enforcement and the INS, and in some communities passed laws that made it virtually a violation of the local ordinance for any employee of that local government to cooperate in any way with the INS. I had to issue an opinion this last year on that, and I opined at that time that that was unconstitutional because the treaties of the United States and the Constitution are supreme.

As a result of that, there have been some changes with local communities changing their ordinance or dropping it altogether. I think what you need to do is have a close level of cooperation with the INS and local law enforcement, making sure local law enforcement doesn't become a mere extension of INS.

The reason that's important is this: As long as we have a presence of a large number of people who are here illegally, many of them here living their lives without being involved in crime, you don't want to subject them to undue victimization by the criminal element, precisely because the criminal element knows that they are less likely to cooperate with the police.

If I have been victimized by a crime or I witness a crime in my community and I am here illegally, and I know if I go to law enforcement and say look at this crime that has been committed over here, instead of looking at that crime they look at me and say you came to us as a witness and you came to us as a victim, we know you are here illegally, and we are going to send you over to the INS, No. 1, I don't think that's what you ought to be doing to peo-

ple. No. 2, it breaks down any ability of local law enforcement to function with that part of the community to get rid of tougher crime.

You have to more narrowly draw it. I think most departments have done a very good job on that. Where they go and they have arrested someone for a felony or serious misdemeanor, and in the course of that arrest and while they are conducting the regular police activity for that purpose, they determine that there is evidence to suggest that this person is here illegally, they ought to immediately notify INS with that.

I won't bring up the communities. I have been told by some communities where that has occurred because of lack of people, the INS doesn't respond. There's one jurisdiction in Orange County that on their own drives 200 people down to the San Onofre station every month because when they call, the INS doesn't come. They literally have to do it themselves.

That is not the kind of encouragement of the spirit of cooperation that I would like to see.

Mr. HORN. Would you like to comment on that question?

Ms. BROWN. I would concur, that cooperation needs to be close. But there's a thin line here, where you do not want to give any discouragement to individuals in our cities from cooperating in the apprehension of individuals who have committed a crime.

Mr. HORN. Let me ask one last question, and I will start with the treasurer. In your letter to President Clinton on July 24, 1993, you cited the financial strains placed upon the California Criminal Justice System due to incarcerating illegal aliens. One could argue that the burden is even greater in terms of financial strains for health, education, and welfare services.

As State treasurer, what are your solutions to reduce this greater demand? Do you support, for example, as some do and some don't, denying public assistance benefits to illegal aliens?

Ms. BROWN. I think that in each one of these cases—and I think Attorney General Lungren outlined a whole range of logistical and legal considerations with respect to the proposal that I have made and I appreciate those—a whole series of similar procedural, legal, and human concerns can be raised with respect to the education area and the health benefit area.

As a citizen and as treasurer in that value judgment, when I am trying to figure out the steps that I think are reasonable and feasible for us to take as a society to deal with what is a very serious challenge to us, I come down on the side where there are individuals who have committed a crime and we are paying to incarcerate them, and we ought to figure out ways to get them back to their country.

With respect to children who are in school, I come down on the other side. The constitutional hurdles are certainly there, but for my personal concern, the specter of children being put on the street and having no education whatsoever is a far more costly program for taxpayers than to educate them. They are not here through faults of their own. I would not be supportive of those who would suggest that we should throw the children on the street.

The same kinds of concerns, but from a public health perspective and a humane concern, apply to emergency health services. That

is how my value judgments are made in what is admittedly a complex, troubling, and difficult arena.

Mr. HORN. Mr. Attorney General, any comment on that question?

Mr. LUNGREN. Again, back in 1986, I thought that we had carved out a pretty good response which was that we were going to recognize that many people have been here illegally for a long period of time and haven't enforced the law. We would have a one-time-only legalization program and we would pay for that on the Federal level. We would allow these people to be immediately eligible for certain types of public assistance. I support the idea of emergency medical assistance.

But the idea was that thereafter we were not going to have public assistance being there for people who were here illegally. I think we have to confront that tough question. People are coming to the United States primarily for jobs, but we have now created a system in which you can come and you can also get public assistance. If that's not a magnet, then the removal of that would not harm those who came here for other purposes. But if it is a magnet, we have to at least deal with it.

I think we fundamentally want to give emergency medical treatment. I don't think there's any doubt about that. I would continue to support that.

But in terms of a Federal obligation, that the State of California has to provide all public assistance and other programs to those who are here illegally does confer a benefit, I try and break things down very simply. Human beings react to incentives and disincentives. If you encourage me to come, I may very well come.

The children that are in our schools, that's a very—my sister teaches in the inner city of Long Beach, as you know, a very distinguished teacher. She received an award 2 weeks ago from President Clinton in the Rose Garden. I know how difficult it has been for her to teach children from all sorts of backgrounds, socio-economic backgrounds. She does it, though. She doesn't take no for an answer. If you were her brother, you would know what I meant.

Ms. BROWN. Sisters and brothers understand those things.

Mr. LUNGREN. That's true. I am very proud of my sister.

Mr. HORN. Sometimes it's sisters more than brothers.

Ms. BROWN. I am very proud of my brother. [Laughter.]

Mr. LUNGREN. I think that we have to fundamentally take a look at that, because I do think there is an incentive that does draw some people here. It goes back to what Father Hesburgh, your friend and my friend, said a number of years ago when he was chairman of the Immigration Commission established by President Carter. He said we have to close the back door of illegal immigration in order to keep the front door of legal immigration open.

When I hear some people now say I am for a moratorium on all immigration, that's what really bothers me, because we are on the threshold of having people say pull up the gate, deepen the moat, I am here and nobody else should come in. I don't want to see that happen.

You can see why some segments of the American people are beginning to think that, because they have lost faith in the Federal Government to close in that back door.

Mr. HORN. Right.

Ms. BROWN. I would just echo what Attorney General Lungren said in his primary comments. That is, people come here for a better life. That better life is a job opportunity. The importance of protecting our borders and the integrity of our borders is the first priority. Then to address the major magnet, which is the job magnet, through the enforcement of employer sanctions is clearly, from my perspective, the best way to go.

I think that is critical for our success in dealing with this challenge.

Mr. HORN. I thank you, Mr. Chairman. We have had two excellent, articulate witnesses. I wonder if either one of you ever thought of seeking higher office.

Mr. CONDIT. Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman, for first of all inviting me to be here. I apologize for being a little late to both Treasurer Brown and Attorney General Lungren. I will only ask a few questions because I did miss the bulk of your testimonies.

Attorney General, you mentioned with regard to the public assistance that some folks may be coming to this country because of the benefits they may get under public assistance. I know this is said quite a bit. I am trying to find out what all the public assistance is that people are talking about.

The emergency medical care is there. Can you identify the elements of the public assistance that an undocumented would be entitled to?

Mr. LUNGREN. If you are saying that someone is here illegally and is not seen as being here illegally, they would be entitled to virtually anything else that anybody else would be here in the United States, if you presume they are here legally. They are a resident of the State of California. They have the ability to receive any and all benefits that would be obtainable to anybody else.

The Governor made a proposal that you make a discount, so to speak, for people who have come from another State here in terms of initial welfare payments for the first year. You know how difficult that has been for that to receive serious consideration and whether that is constitutional.

I think you are presuming in most cases that people are not revealed as being here illegally and that the local jurisdictions make no attempt to try and make that determination.

Mr. BECERRA. In which case it's not that they are entitled to it, it's that they might be defrauding that particular local jurisdiction and receiving the benefits.

Mr. LUNGREN. Under the 1990 OBRA, isn't there a specific requirement that the local jurisdiction provide those benefits? I think you are correct, in most cases it is in fact because they are not revealed here as being illegal.

Mr. BECERRA. Can you identify or do you know of anyone who would happen to know what different types of benefits an undocumented would be entitled to?

Mr. LUNGREN. No. I wasn't prepared to talk to that question because I just answered in response. I think you may have some representatives from the county here that might be able to.

Ms. BROWN. What they do get is public education, and if they commit a crime, they get to spend time in our prisons until they

have served it out. I think in the health and welfare area, there are a number of specific requirements for demonstrating that you are here legally unless you are here at the facility with an emergency case.

What has been proposed by the Governor is to deny that care, or what seems to be proposed, though it's not clear because there are, again, mandates.

Mr. BECERRA. There is where I get lost. I understand that the emergency medical care is provided. That's a public benefit that we do provide to anyone, whether they have documentation or not. Education is another public benefit that we do provide a child, whether or not the person is a citizen.

Ms. BROWN. If a child is born here, that child is then entitled to benefits.

Mr. BECERRA. Right, because a child is not illegally here as a citizen of this country.

Ms. BROWN. Correct.

Mr. BECERRA. Other than the two benefits that we have identified clearly, emergency medical care and education services to children, can either of the two of you identify any other public assistance benefit? You mentioned the criminal justice system. Is there anything else that either of the two of you can identify as a public assistance benefit that an undocumented person would be entitled to?

Mr. HORN. Excuse me, but is not AFDC a grant to the family? It might be aimed for the child but it helps the family as well. One can argue while the child is now a U.S. citizen by virtue of being born on American soil, the parent is not, and that is a subsidy of parent and child or parents and child as the case may be.

Mr. BECERRA. Congressman Horn, what you are arguing is that these citizen children are not entitled to the same type of treatment that another citizen child is entitled to.

Mr. HORN. No. I am saying that you have to realize that when you grant aid to a child born of illegal immigrant parents, the purpose of many of which we have clearly more and more evidence, and you will hear it from the county representatives that bear the brunt of these, they come to this country to have a child. They are illegal. That's their purpose.

I am told that you even find maps on some on how to get to the University of California, Irvine Medical Center and all of that. The fact is, while the child is a U.S. citizen, the parents are not and came here for that purpose, and that's pretty darn difficult, shall we say, for an 8 month pregnant mother to make it across the border, which shows the ease in part in getting across the border.

Mr. BECERRA. You are assuming, and this you can provide me with particular evidence of an 8 month pregnant woman crossing the border. I am assuming that you are assuming that that has occurred. It probably has. I am not saying that it hasn't. But for you or I to discuss for the record that there are 8-month pregnant women crossing the county—

Mr. HORN. Let's ask the county of Los Angeles people when they get here.

Mr. BECERRA. Certainly.

Mr. HORN. They are the experts on that.

Mr. BECERRA. We can do that. Let me get back to my initial question. Aside from the two benefits that were identified, emergency medical care and public education, is there anything that either of the two of you can identify.

Ms. BROWN. Incarceration.

Mr. BECERRA. Incarceration. But I don't think that is an incentive for people to come into this country, to get incarcerated. I won't deny that's a public benefit.

Ms. BROWN. That is a public benefit.

Mr. BECERRA. Other than those two benefits—

Mr. LUNGREN. Medi-Cal benefits. If you are assuming that people are receiving them because they are not revealed as being here illegally, Medi-Cal benefits. That is a—

Mr. BECERRA. Again, that's not something they are entitled to. They may deceive or defraud the Medi-Cal offices and thereby be able to receive that money, but they are not entitled to it. We don't have a law that says you are entitled to receive this.

Mr. LUNGREN. Correct.

Mr. BECERRA. Is there anything else that either of the two of you might be able to identify? The Governor's proposal talks about denying medical services to the undocumented, everything except emergency medical care. I am trying to figure out what the rest of that is, and haven't been able to identify it.

Mr. LUNGREN. We have a representative from the Governor's office here.

Mr. BECERRA. Maybe we can ask her. I believe the other question was actually answered. Let me ask—and this is something that neither of the two of you really have control over, but I would be interested in your thoughts.

In trying to get additional moneys, obviously we need to beef up our Border Patrol line of services, any thoughts on what we can do to try to pull some money out to help the INS commence the deportation proceedings for some of these folks that are apprehended and convicted so we can get through the process of actually getting them deported. Is there anything that you can think of that can help us at the Federal level come up with policies to try to expedite the process between apprehension and the determination that they should not be in this country?

Mr. LUNGREN. The fact of the matter is, it's going to take more people. That's the answer we got all the time when we would ask them why they are not doing it when I was in the Congress, and what you still get now. I think there hasn't been enough exposure to the fact that that is one of the principal problems.

When I am told off the record by some people from the Border Patrol that they are not really prosecuting most smugglers today, smugglers of illegal aliens, because they don't have the holding space and manpower and money to do that, you don't hear that in your testimony. They probably say how can you prove that. I can't prove it. I just know what has been said by some who will talk off the record.

If that disincentive for someone to be a smuggler is gone, it's gone. You have a situation, because of accidents that took place last year with high speed chases, you go down to the San Onofre spot right now and someone bugs out of there with a car and they

take an evasive action, the Border Patrol pulls off. All you have to do is be a bad driver and they pull off.

There have been proposals before that they have built two or three additional lanes so that you could direct certain suspect vehicles in those lanes, and then at the end of the lane have those puncture tire—so that you get them out of the regular traffic and don't have to go on a high speed chase. That's never been funded.

There are a number of things that when you put one after the other after the other after the other, they compound and make the INS ineffective. If you have talked with a lot of people on Border Patrol, they are very dedicated to what they do. They are the first group that I knew that had to be bilingual in any service of Federal Government. They are frustrated by their inability to do the job.

Mr. BECERRA. Extremely frustrated.

Mr. LUNGREN. You look at it—and I have looked at this for 15 years now—you look at it and it comes down to dollars and cents and people. As long as we are not going to commit the people and as long as we are not going to commit the dollars and cents, we are pulling a hoax on the American people.

I used to say this and I will still say it. If Washington, DC were located in California, it would have taken care of this problem a long time ago. It's out of sight, out of mind. Federal inaction causes the negative impact to be foisted upon the States. It's one of these things, it's a no-lose situation. We don't do it and we don't suffer, the States do. We have to come almost as supplicants to you and say please help us. We say it because the Federal Government has created the problem.

Ms. BROWN. Senator Feinstein has proposed the \$1 border crossing charge. As you know, in terms of airline ticket fees now that relate to supportive dollars—I think that looking at reorganization of the INS and looking at consolidations, looking at where you can take individuals who might be higher paid that are on desks and replacing them with individuals who might be in a different category so that you can put the people that you need on the border and on the front lines, is another way to look at how we might finance the people that we need to provide this front line service.

Mr. BECERRA. Mr. Chairman, if you would indulge me, one last question.

Mr. CONDIT. Sure.

Mr. BECERRA. Perhaps this is more directed at the attorney general. I ask the two of you, how do you feel about the proposal of perhaps splitting the INS from its enforcement component and its service component and maybe combining Customs with the Border Patrol?

You mentioned the problem of trying to get locals to enforce some of the Federal immigration laws and how it deters different communities from seeking out the assistance of the local police. What if you were to bifurcate INS?

Mr. LUNGREN. I keep hearing that. I heard that for 10 or 15 years. It sounds good and it's wonderful and people do studies on it, and I don't think it would make a darn bit of difference.

What you need to do is have the people—let me tell you why. You used to argue that you ought to bifurcate INS because you need the service side and you need the Border Patrol side and you

couldn't mesh the two, and that was the genesis of proposal that we had in the 1986 law which created kind of those buffer organizations, church groups, and others who were supposed to be the ones you went to with your documents because you couldn't trust the INS.

It ended up that 95 or 98 percent of the people that went to the legalization program went directly to the INS. They didn't believe in their own minds that because they enforced the law they couldn't be trusted to service the law and to service the legalization program.

Now with that one sting operation somebody did, which I think was poorly thought of, that's probably created some problem with the credibility, but overall they have done that job. INS can do it if you give them the money and you give them the people. It's like a lot of congressional questions, if you have a problem you don't want to solve, create a commission. I have served on two or three of those commissions and it postpones it usually until after the next election.

It's nice to have the concept of bringing in Customs and INS, but that's not the problem. That really is not the problem. The problem is, we don't have enough people dedicated to do the job. You can call them what you will. Unless you have them, it's just not going to be solved.

Mr. BECERRA. Thank you.

Ms. BROWN. I am inherently suspect of rearranging boxes to solve the problems, but that is not to say that the boxes that may be currently existing can't be better structured. I think it ought to be looked at. I know that it is being looked at. If you can squeeze more dollars and more efficiency and more focus on this problem, then I would be most supportive of it.

Mr. LUNGREN. This is important, and it's the reason that I keep going back to the tamperproof Social Security card and that underpinning the employer sanctions, the employer sanction program the way it was designed was one of the most effective and most efficient ways for the INS to work.

That is, instead of going out and doing raids, you go in and check the documentation in the employment part of the office. Then you see if you have any evidence that it appears that this employer has been hiring, and then you do a raid if you need it. It is so less intrusive into the employer province and it is so much better use of the time of the INS agents than what they are forced to do now. In many cases they don't do anything now. If they do you have heard the stories.

They come in and everybody gets excited, and people have no reason to run because they are scared to death. This underlying premise of a tamperproof card that will—the employer sanction program cannot be lost, in my judgment. Again, it costs a little bit of upfront money, but it would probably be cheaper today to come up with it than it was 10 years ago or 15 years ago.

I just say, if American business dealt with their problems this way, we would be first in—

Mr. HORN. Chapter 11, worldwide.

Mr. LUNGREN. We would be first in horse whips for horse buggies and not even have a car here in the United States yet.

Ms. BROWN. Let me just say that I totally endorse the concept of a tamperproof Social Security card, so long as it applies to every single individual. I would further suggest that we provide for a process that I don't think would be too onerous, for employers to provide a Xerox of a copy of that tamperproof ID card along with an easily accessible 800 number. I am into 800 numbers.

Mr. HORN. I know. It's a family characteristic.

Ms. BROWN. I know that they can work. I think that those two things together, plus the recognition that you are going to have to pay for it—an individual would pay for that card. Again, individuals, if they understood that this was the single most effective way to address the magnet for coming to this country without following the legal steps, that would be indeed followed.

Mr. BECERRA. Don't forget two issues, though. When you go to that ID, of a tamperproof ID card, national ID card—

Ms. BROWN. Social Security card.

Mr. BECERRA. How do you ensure one that the underlying documents that are used to make sure you get the Social Security card are valid? You may have a tamperproof Social Security card, but the ID used to get that card is not.

Ms. BROWN. The chicken and the egg. Without it, you are left with 26, 27, how many different IDs can now be used—

Mr. BECERRA. I understand that point. The second point, of course, it costs about \$70 to get a green card. If we are talking about issuing this Social Security tamperproof ID card to everybody in the Nation, 260 million times at least \$70. Let's do some quick math.

Ms. BROWN. I don't think it's that.

Mr. LUNGREN. Visa and MasterCard can give us a better—I would suggest that it's probably less than a buck today.

Ms. BROWN. I think it's more than a buck, less than \$70. We will try and get you a number for that.

[The information follows:]

According to the testimony of Lou Enoff, Acting Commissioner of the Social Security Administration, the cost would be \$8 to \$10 per card. Source: House Committee on Judiciary, Subcommittee on International Law, Immigration, and Refugees, hearing held on 6/16/93.

Mr. LUNGREN. Then, to end on an uncontroversial note, pass NAFTA.

Mr. CONDIT. Before you leave, I have one real quick question. Attorney General, you mentioned that we needed more manpower and more money. There are some studies and some indication that the Justice Department—INS is a division of the Justice Department—really doesn't pay a lot of attention to INS. Is there any feeling that they have not really focused and set priorities with INS?

Mr. LUNGREN. Sure.

Mr. CONDIT. Would you concur with that?

Mr. LUNGREN. They are the illegitimate stepchild of the Federal Government in general and the Justice Department in particular. How many people go anywhere because they headed up the INS or they did this, that, or the other thing.

Mr. CONDIT. If you just pour money or manpower into it, you don't provide leadership for INS in the Justice Department. Everything can be discussed, but it's not going to change.

Mr. LUNGREN. I saw a real change during the 10 years that I was there. Actually, I thought Alan Nelson did a pretty good job of trying to bring them kicking and screaming into this century. He was beset by a lot of lack of funds. Doris Meisner did an excellent job as acting head of INS while I was in the Congress. I hope she gets confirmed. I think she would do a very good job.

I don't think it's a lack of leadership in those positions. I think again, you can be the best leader in the world and if you don't get the resources, it's just not going to work.

Mr. CONDIT. I am not suggesting it's a lack of leadership from the INS part. I am suggesting that it's a lack of interest from the Justice Department and leadership from there.

Mr. HORN. It is Justice that recommends the resources for INS to OMB and the President.

Mr. CONDIT. Right.

Mr. LUNGREN. I just know how much time they spent on the immigration law during the time I was there, and it was an unbelievable amount of time that we did to get that 1986 act through. I also remember that there were two committees, there's an authorizing committee and an appropriations committee. We did better in the authorizing committee than we did in the appropriations committee.

Ms. BROWN. I think that's still true.

Mr. CONDIT. As a tough law enforcement person, you said earlier that we don't prosecute smugglers. Do you have any thoughts on what we ought to do with smugglers, the coyotes, et cetera, and what we should do with people that tamper with documents? We have a tremendous problem in this country with people who falsify documents. Do you have any quick thoughts about that?

Mr. LUNGREN. I don't know what the current sanction is for smugglers. To me, they traffic in human cargo, and we ought to have appropriate sanctions to them. If you run into some of these cases and have seen them, they really don't have a great deal of concern about the people they are carrying. They just view them as cargo. We ought to deal with them in that regard.

Mr. CONDIT. Do asset forfeiture laws apply to this crime?

Mr. LUNGREN. I have heard that. I am fighting to save asset forfeiture in California against drug dealers. We are fighting on the Federal level to maintain asset forfeiture right now for drug dealers, and we are getting hit from all sides. I would like to maintain asset forfeiture as it is, and not get into another huge fight into that.

You want to make certain that they forfeit the assets that are used specifically in the crime that they are committing; that is, the vehicles and so forth. I am not sure that that is not already available at the present time.

In terms of the sanctions, sanctions are great but you have to enforce them. The sanctions can be as tough as you want, but they are just not being enforced out there today. We need to step that up. That is not only a function of INS, it's a function of the U.S. Attorney, it's a function of the commitment made by the Justice Department in those regards. It's a commitment that, yes, it's difficult to keep these people.

When I went down to the border one of the first times, I saw they stopped one of these groups coming across, and there was a very old lady there. I am wondering why is there a lady like 80-some years of age. They told me about another where they would have a pregnant woman as one of the group that's there.

They said that the smugglers knew that it was less likely that the INS would continue to hold as material witnesses someone who is an aged individual or someone who is pregnant. They would probably send them back to their home country, in which case the defendant could argue that the Federal Government had that person in their custody, under their control, and that person has now gone back to their country and they can't find them. Therefore, the case is dropped because they have lost material witnesses.

These people are not dumb. They know what they are doing. We ought to treat them as such. If they want to make a lot of money and this sort of thing, then they ought to be willing to pay the consequences.

Ms. BROWN. Tough sanctions, absolutely appropriate in order. Asset forfeiture, again, if you can do it. I think there is some confusion to the legality and constitutionality, but we should go after it. That following through is so critical.

I know on the State level, for example, in the Worker's Compensation area, the fraud in Worker's Compensation fed upon itself. When there was a failure to enforce the law, a failure to prosecute fraud, it just grew expeditiously.

I think similarly the case can be made in this alien smuggling. I think what President Clinton did with respect to the alien smuggling case just a few weeks ago or a month ago began to draw the line that we will not tolerate this. It's tough, but it needs to be followed through.

Mr. CONDIT. Thank you.

Mr. HORN. We have not mentioned one area that often gets mentioned. We might as well get it on the record. Obviously, human resources on our side of the border are needed to stop the human flow. Several thousand a night come over despite the Border Patrol's efforts.

We mentioned the \$60 million Congress added. You mentioned that the Border Patrol has never been given sufficient resources by the Justice Department or any administration, for that matter.

What about the use of the military in terms of peaceful maneuvers or whatever, just human presence there? You don't even have to be armed. You just have to stop people. If you were armed as the Border Patrol is also armed—with the end of the cold war and many of us have advocated this for 20 years and I will give you my bias—I have never understood why the military couldn't be more helpful in helping control the border.

Mr. LUNGREN. I would like to see the military more helpful in controlling the border, not only illegal immigration but the flow of drugs, but not directly. I think we would make a major mistake if we are going to commit the military in a direct presence with respect to controlling the border. They are not trained to do that. They are trained to do other things in time of war.

Some guy on the radio now says that the military is trained to kill people and break things. That may be an overly simplistic defi-

nition, but to put a 19 year old who is out there in uniform trained in combat to somehow make the determination as to whether they are going to stop this person or not stop this person, I think it puts a tremendous onus on them. The first time you have a bad shooting we will have tremendous repercussions throughout not just ourselves and Mexico, but throughout all of Latin America and around the world. I don't want to see that.

However, we could have the military do maneuvers in and around the border in California. What that presence would do would be direct the flow more toward either the legal entry points or just on the outskirts of urbanized areas. Then it's easier for the INS to do their job. Certainly, they could do that as well down there.

We have maneuvers where they actually sit in foxholes for as much as 2 weeks at a time. That may not sound very exciting. That's part of what you do when you are in the military. They can certainly do that as much as on the southern border as they can further up north.

Ms. BROWN. I grew up in a town where I remember seeing a cop car on the street that forced people to think about obeying the law. I think consistent with that reminder that the more presence you have on our border of law enforcement personnel in a capacity to dissuade, to act as a buffer, is not at all inappropriate and is indeed advisable.

I think you do have to ensure that the supervisorial, the regulatory, and the power, needs to remain with the INS, that has the training and expertise and authority in that area. We have law enforcement that lives in different empires, and all of our tax dollars—we need to find ways to leverage and maximize the use of those tax dollars through cooperation to a far greater extent and deployment of those resources in a more creative way than we have in the past, always being mindful of the reality that the INS has to be the lead agency in this until something significant has changed.

Mr. HORN. The attorney general mentioned in passing NAFTA—and I assume you mean by that the North American Free Trade Agreement—if jobs could be developed in Mexico, perhaps a lot of opportunities would be there so that the citizens of Mexico or Guatemala or El Salvador and 50 other countries that you and I could name—

Mr. LUNGREN. Not only on the Mexican border, but throughout Mexico.

Mr. HORN. And throughout Latin America, really.

Mr. LUNGREN. I get very tired of people who believe it's a "bigger than thy neighbor" thought that somehow because we are a major industrial power in Mexico that they should remain there. That is not the history of the world and that is not where they are going to do it.

Look, when I was dealing with the immigration law I used to say yes, it's a problem, but it's a tremendous tribute to the United States. Why is it a problem? Because people want to come here. Why do they want to come here? For freedom and economic opportunity. I would do the same thing.

If I were in Mexico or some other part of Central or South America and my wife were pregnant and I could get my child up here to be born in the United States, that would be the greatest gift I could give him, and I would move heaven and earth to do it. Why should we be surprised that some people do it?

Mr. HORN. Right.

Mr. LUNGREN. We have to somehow deal with that reality, it seems to me, and recognize that until and unless they have a true opportunity for economic participation, we are not going to fundamentally change the dynamics.

Mr. HORN. I just wonder, do you agree that NAFTA would be helpful to both countries in this regard?

Ms. BROWN. I think the Free Trade is unquestionably helpful. I think that the promise of NAFTA certainly offers the long term hope for that greater equilibrium. But I have to tell you as I look at the side agreements which have been critical to my evaluation of NAFTA for worker displacement and worker retraining and the environmental conditions, and I look at the costs that are going to be immediate with respect to the imposition or the acceptance of NAFTA on California, I think we have to think very carefully about the issue of resources.

I am here today talking about \$500 million per year that it costs California to incarcerate illegal felons in this State and in our local and State prisons. We are talking about serious economic impacts with the tariffs being eliminated under NAFTA, with the proposals that the side agreements have for infrastructure banks, for worker training—I think it was Attorney General Lungren that said we have a lot better luck in Washington with authorizations than we do with appropriations.

Last time I checked, State officials didn't vote on NAFTA, you do. I would urge you particularly from California, as you look at that agreement and those side agreements, please tell us where the money is going to come from and have it be pretty specific for our State and other similarly situated States that are going to be directly impacted. Don't let that be another hope and prayer that we will be waiting for in the consideration of some later date's impact.

Mr. CONDIT. Thank you both. You have been very kind with your time. We appreciate it. We will be in contact with both of you with additional questions and for help with this issue in the future.

Ms. BROWN. Thank you very much.

Mr. LUNGREN. Thank you.

Mr. CONDIT. I am going to ask the second panel to come forward. I am going to turn to my colleague who is not on the committee but has joined us today and has shown a great interest in this issue, Mr. Becerra, and I am going to let him make his opening statement. Then I am going to ask him to introduce his former colleague in the State legislature and we will hear her statement.

Mr. BECERRA. Thank you, Mr. Condit. I am actually going to be very brief, because my opening statement is just a series of questions that I would like to ask all of the witnesses. I will just defer to their testimony, to get to the point at hand and that is to introduce the member of the assembly that we have before us, Grace Napolitano. It's my pleasure to know Ms. Napolitano. She represents an area of the southeast of downtown Los Angeles. She

does an admirable job of doing so, and you happen to be, as I understand, the chair of a subcommittee on immigration impact. For that reason, obviously, all of us are interested to hear what you have to say.

I know that you deal with the issue day to day, not just because you serve on that select committee but because it's an issue of interest to you. We are very much interested in hearing what you have to say, and we thank you for being here.

STATEMENT OF GRACE F. NAPOLITANO, CALIFORNIA STATE ASSEMBLY, 58TH DISTRICT

Ms. NAPOLITANO. Thank you very much for the invitation, Mr. Chairman and members of the subcommittee, I had prepared a speech and it's been given to you, I am sure. I have other information here that I am going to leave with you, sir. If you will return it to me after you have taken whatever notes you need from it, I would appreciate it.

As chair of the assembly select committee on statewide immigration impact in the California Legislature, I want to express our thanks to the chairman and the honorable members of the subcommittee for coming to California to hear firsthand the testimony of State and local officials and the public on the true impacts of all immigration in the State.

Mr. Chairman, I need not tell you and this committee that this issue, while critically important to our State and Nation, is also so emotionally charged that we have witnessed an onslaught of near hysterical reaction even from some of our top government leaders trying to outdo each other in a bidding war of immigrant bashing prior to getting all the facts, the true facts, based on actual experience.

Unfortunately, a common frustration shared by researchers who have conducted studies on the impact of immigration in California's economy is a lack of hard data. There has been no comprehensive statewide study done on this issue to date, and studies conducted for individual jurisdictions have been contradictory, incomplete, with questionable methodology and certainly subject to wide dispute.

For example, a recent Orange County report entitled, "Assessment of Data on Fiscal Impact of Undocumented Persons in Orange County," concluded that too little data existed within the county government to accurately analyze the fiscal impact of undocumented persons in that county. The assembly office of research recently reviewed over 45 studies and reports for our committee and concluded there is no—I repeat no—conclusive evidence that immigrants have either a positive or a negative impact on California and national economies.

Statistics in State agencies on immigrants and their use of public services in California are largely based on estimates rather than actual numbers. This is due to the fact that agencies providing publicly funded services are either barred from inquiring about resident status or simply do not document the user's immigration status.

Cost benefit studies on immigrants, however flawed they may be, generally have yielded two types of conclusions. One, immigrants

generally have contributed more in Federal tax revenues than they took from the Federal Government and services. Two, State and local government agencies that provide the bulk of these public services utilized by these immigrants are unduly burdened because they do not receive the tax revenues.

For example, Social Security taxes that are paid by legal and undocumented immigrants are rarely utilized for family members receiving benefits from the fund. In essence, these contributions with no commensurate benefits help keep Social Security afloat. Nevertheless, the results of these studies support the argument that the State and local government bear a disproportionate share of the financial burden of immigrants, and the Federal Government has been woefully unresponsive in dealing with SLIAG to ease the severe impact.

All of this begs the question of why there has been no effort on the part of the Federal and State Government to authorize the historical and comprehensive study of this critical issue that affects so many segments of our society. Historical, because most researchers suggest that in order to understand the total impact of the immigration, studies should include long term costs and contributions of all immigrants as the size and characteristics of the immigrant population often vary from time to time.

Comprehensive, because in California, as you perhaps know better than most Californians, the very underpinnings of some of our major industries, including agricultural, have depended on some form of inexpensive labor historically provided by immigrants, both legal and undocumented.

One of my colleagues in the assembly representing the Central Valley candidly admitted recently in a press conference that as far as immigration, legal or undocumented was concerned, he needed it both ways. In effect, the agriculture business would be decimated with enhanced sanctions. That is just one industry. The garment industry, the food industry, the hospitality industry, to name just a few that also depend on this very cheap labor, would also suffer.

People like the availability of fresh and inexpensive farm produce and they like affordable hotel rooms. They don't want to pay exorbitant prices at restaurants. That's not to mention who is going to clean the toilets, but I will, anyway, because that's partly what it is. Who do they think performs these jobs and where do these people come from?

Like my assembly colleague, they want it both ways, too. But they are either too hypocritical or too ignorant to admit it. Some have suggested that immigrants have taken jobs that teenagers could perform, that immigration has contributed to teenage unemployment. I ask you, sir, albeit rhetorically, can California agribusiness survive on teenage labor? Perhaps a few generations ago that would have been true, but farms that feed the State and Nation are located in the wrong zip codes. Today's teenagers would prefer Beverly Hills 90210.

Seriously, sir, there are many types of suggestions that are being advanced not just by the uninformed. Our own U.S. Senators have been tripping over themselves in the government to see who would make the most outrageous proposals.

To intermingle the National Guard with the U.S. Border Patrol would be simply disastrous and wrong. The way to enhance the Border Patrol is to increase their budget which is long overdue. According to the Los Angeles Daily News, Governor Wilson cynically resorted to taking out \$30,000 worth of full page ads to herald the proposal to change the Constitution to deny American-born citizens, the children of undocumented immigrants, their citizenship, their education, and their emergency health services because those services are supposedly what attract immigrants to our State.

As I have said earlier, these patently false statements fly in the face of every study done, including the most recent report released by the State Office of Research which indicated that more than 95 percent of all immigrants living in California were self-supporting and not receiving cash assistance from the government.

Others sought to obfuscate the issue by attempting to pit ethnic and racial groups against each other, who otherwise would generally support each other in their advancement from the low end of the economic and social spectrum such as a suggestion that immigrants take jobs that would be performed by black males.

The Rand Corp. study, one of the most reputable and widely recognized research centers in the world, concluded that immigrants do not take jobs away from inner city black males. We, as rational people, must examine the misguided logic of intemperate immigrant bashers. How can immigrants take away all of our jobs and use up all our welfare? It cannot be both.

For argument's sake, do they also want it both ways? Obviously, to coin a Washington phrase, immigration policy has become the issue. As such, it is subject to the basis of media manipulation. But you and I know that the work of your subcommittee and our select committee, along with every other legitimate attempt to address this problem in legal, moral, and humane terms, must be based on facts and not fiction.

No one supports illegal immigration. There are many facets of illegal immigration. Not all illegal immigrants run across our border. They fly in also. We have seen incidents of Chinese human cargo. Perhaps the most insidious form of illegal immigration available only to those who can afford it, is the practice of those who come here illegally and then deliberately overstay their visas or those who seek refugee asylum and then disappear prior to the status hearings.

The INS admits that they have no way of tracking these people down. We have a major problem to deal with, sir, but it's not the problem limited to those who are dark-skinned. What about the major influx of the European and Canadian illegal immigrants? They are able to blend right in with polite white society.

Another of my colleagues at the committee who represents Palm Springs and other sunny desert retreats recently indicated that many, perhaps thousands, of the so-called snow birds who come to escape the brutal Canadian winter simply decide to stay. They also contribute to the local, regional, State, and national economy. But where is the effort to herd them up in the vans and buses and deposit them on unceremoniously across the Canadian border?

Our job, sir, must be to deal with the facts in a fair and equitable manner. There is much we can and must accomplish. Our commit-

tee will be holding a series of hearings throughout the State to determine the true impacts of immigration on the broad spectrum of entities including the State, local government, the economy, environment, et cetera.

There are some excellent proposals being advanced after careful study. We need to examine the necessity of enhanced employer sanctions. As you heard, that's quite a big broad spectrum that we need to address, quite literally, since every study suggests that illegal immigrants come here for jobs. If employers followed the law, there would be no jobs for undocumented persons.

We need to examine asset forfeiture for recalcitrant employers of undocumented aliens. We need to substantially stiffen penalties for human smugglers. There is a bill currently in the State that would address that particular issue. We need to increase the Border Patrol but also demand better training and sensitivity. We need the Federal Government to undertake the obligation of imprisoning all criminal aliens who are convicted of felonies or misdemeanors and who are currently serving their sentences in State prisons or local jails.

We need to seriously examine the feasibility of the Federal Government negotiating a new treaty with Mexico, to build a prison in Mexico that will accommodate the more than 14,000 Mexican prisoners now serving their sentences in California prisons.

Above all, we need to expedite payments currently pending and make appropriate decisions in future budgets, to have the Federal Government undertake the cost associated with what is rightfully and exclusively a Federal issue and not just to leave it to the States to cope with the spiraling expenditures, to the detriment of the State and local economies.

Finally, I appeal to the subcommittee to avoid the bashing and blame that is historically and inevitably laid upon immigrants. We must reject the racist hysteria that currently envelops this tragic issue and address the real underlying causes that affect our society and those that all these people have desperately chosen. In the end, we are a nation of immigrants, but we must also deal with today's influx, yes, but also with compassion.

As President Kennedy so eloquently said in similar circumstances, who among us would trade places with them? Thank you.

[The prepared statement of Ms. Napolitano follows:]

MEMBERS

JOE BACA
 JULIE BOHNSTEIN
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 RAO TAKASUGI

**Assembly
 California Legislature**
**SELECT COMMITTEE ON STATEWIDE
 IMMIGRATION IMPACT**
GRACE F. NAPOLITANO
CHAIRWOMAN



STATE CAPITOL,
 P.O. BOX 946806
 SACRAMENTO, CA 95829-0680
 PHONE: (916) 445-2885
 FAX: (916) 327-1300

**TESTIMONY PRESENTED TO THE
 HOUSE OF REPRESENTATIVES
 INFORMATION, JUSTICE, TRANSPORTATION AND AGRICULTURE
 SUBCOMMITTEE OF THE
 COMMITTEE ON GOVERNMENT OPERATIONS**

By
ASSEMBLYWOMAN GRACE F. NAPOLITANO
CHAIRWOMAN
ASSEMBLY SELECT COMMITTEE ON
STATEWIDE IMMIGRATION IMPACT
OF THE CALIFORNIA LEGISLATURE

AUGUST 31, 1993
LOS ANGELES, CALIFORNIA

Mr. Chairman and Members of the Subcommittee:

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Mr. Chairman, I need not tell you and this committee, that this issue, while critically important to our state and nation, is also so emotionally charged that we have witnessed an onslaught of near-hysterical reaction, even from some of our top government leaders trying to outdo each other in a bidding war of immigrant bashing, prior to getting all the facts, the true facts based on actual experience.

Unfortunately, Mr. Chairman, a common frustration shared by researchers who have conducted studies on the impact of immigration on California's economy is the lack of hard data. There has been no comprehensive statewide study done on this issue to date and studies conducted for individual jurisdictions have been contradictory, incomplete, with questionable methodology and certainly subject to wide dispute.

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For example, social security taxes paid by legal and undocumented immigrants, are rarely utilized from family members receiving benefits from the fund. In essence, these contributions with no commensurate benefits help keep the Social Security fund afloat.

Nevertheless, the results of these studies support the argument that state and local governments bear a disproportionate share of the financial burden of immigrants. And, the federal government has been woefully unresponsive in dealing with SLIAG and other subventions to ease the severe impact.

All of this, Mr. Chairman, begs the question of why there has been no effort on the part of the federal and state government to authorize a historical and comprehensive study of this critical issue that affects so many segments of our society. Historical because most researchers suggest that in order to understand the total impact of immigration, studies should include the long-term costs and contributions of all immigrants, as the size and characteristics of the immigrant population often vary over time.

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Comprehensive, because in California, as you perhaps know better than most Mr. Chairman, the very underpinnings of some of our major industries, including agricultural, have depended on some form of inexpensive labor, historically provided by immigrants both legal and undocumented. One of my colleagues in the Assembly representing the central valley candidly admitted at a press conference last week, that as far as immigration, legal or undocumented, was concerned, he needed it both ways! In effect, agribusiness would be decimated with enhanced employer sanctions.

And that is just one industry. The garment industry, the food service industry, the hospitality industry, to name but a few, also depend on this cheap labor. People like the availability of fresh, inexpensive farm produce, they like affordable hotel rooms, and they don't want to pay exorbitant prices at restaurants. That is not to mention the clean toilets, but I will anyway! Who do they think perform these jobs and where do they think these people come from? Like my Assembly colleague, they want it both ways too, but they are either too hypocritical or ignorant to admit it.

Some have suggested that immigrants have taken jobs that teen-agers could perform, that immigration has contributed to teenage unemployment. Now I ask you, Mr. Chairman, albeit rhetorically, can California agribusiness survive on teen-age labor? Perhaps a few generations ago, but the farms that feed this state and nation are located in the wrong zip code. Today's teen-agers seem to prefer Beverly Hills 90210!

Seriously, Mr. Chairman, these are the types of suggestions that are being advanced, and not just by uninformed bigots. Our own United States Senators have been tripping over themselves and the Governor to see who can make the most outrageous proposal. Senator Boxer's ill conceived idea to commingle the National Guard with the U.S. Border Patrol would be a disaster in the making, and simply wrong. The way to enhance the Border Patrol is to increase the Border Patrol's budget, which is long overdue anyway.

According to the Los Angeles Daily News, Governor Wilson cynically resorted to taking out \$30,000.00 worth of full page ads to herald his proposal to change the Constitution to deny American born children of undocumented immigrants citizenship, education and health services because these services are what attract immigrants to our state.

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Others have sought to obfuscate the issue by attempting to pit ethnic and racial groups against each other, who otherwise generally support each others advancement from the low end of the social and economic spectrum. Such as the suggestion that immigrants take jobs that would be performed by Black males. The Rand Corporation study, one of the most reputable and widely recognized research centers in the world, concluded that immigrants don't take jobs away from inner city Black males.

Mr. Chairman, we, as rational people, must examine the misguided logic of these intemperate immigrant bashers. How can it cannot be both! Or, for their arguments sake, do they want it both ways also?

Obviously Mr. Chairman, to coin a Washington phrase, Immigration policy has become "the issue du jour". As such, it is subject to the basest kind of media manipulation. But you know, and I know, that the work of your Subcommittee and the work of my Select Committee, along with every other legitimate attempt to address this problem in legal, moral and humane terms, must be based on facts, not fiction.

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Yes, we have a major problem to deal with Mr. Chairman. But it is not a problem limited to people who are dark skinned. What about the major influx of European and Canadian illegal immigration. They are able to blend right in with polite white society.

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Another of my colleagues on the Committee who represents Palm Springs and other sunny dessert retreats, recently indicated that many, perhaps thousands, of so-called "Snow Birds" who come to escape the brutal Canadian winters, simply decide to stay. They also contribute to the local, regional, state and national economy. But where is the effort to herd them up into vans and busses and deposit them unceremoniously across the northern border?

Our job, Mr. Chairman, must be to deal with facts in a fair and equitable manner. There is much we can and must accomplish. The Assembly Select Committee on Statewide Immigration Impact will be holding a series of Hearings throughout the state to attempt to determine the true impacts of immigration on the broad spectrum of entities, including state and local governments, the economy, the environment and so forth.

There are some excellent proposals being advanced after careful study. We need to examine the necessity of enhanced Employer Sanctions. Quite literally, since every study suggests that illegal immigrants come here for jobs, if employers followed the law, there would be no jobs for undocumented persons--period. We need to examine asset forfeiture for recalcitrant employers of undocumented aliens. We need to substantially stiffen penalties for human smugglers. We need to increase the Border Patrol, but also demand better training and sensitivity. We need the Federal Government to undertake the obligation of imprisoning all criminal aliens who are convicted of felonies or misdemeanors, and are currently serving their sentences in state prisons or local jails. We need to seriously examine the feasibility of the federal government negotiating a new treaty with Mexico to build a prison in Mexico that will accommodate the more than 14,000 Mexican prisoners now serving their sentences in California state prisons.

Above all, we need to expedite the SLIAG payments currently pending and make the appropriate decisions in future budgets to have the federal government undertake the costs associated with what is rightfully and exclusively a federal issue, and not just leave it to the states to cope with spiraling expenditures to the detriment of the state and local economies.

Finally, Mr. Chairman, I appeal to this Subcommittee to avoid the bashing and blame that historically and inevitably is laid upon immigrants. We must reject the racist hysteria that currently envelops this tragic issue and address the real underlying causes that have affected our society and those that all these people have desperately chosen to flee.

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In the end, we are a nation of immigrants and we must deal with today's influx with resolve, yes, but also with compassion. As President Kennedy so eloquently said in a similar circumstance, "Who among us would trade places with them?"

Thank you very much.

Mr. CONDIT. I want to thank you for your statement which eloquently described the data collection problem, which the General Accounting Office has characterized more clinically.

You described problems with people who overstay their visas. It's my understanding that this is the next to the largest source of illegal immigration. But you also point out the difficulties of tracking down those who overstay their visa as well.

The General Accounting Office has told us that the question regarding who is allowed to enter the country is very important to a successful administration of immigration law. In light of the overstay problem, what are your views on increasing scrutiny which is applied when issuing the visa, and should there be fewer visas issued?

Ms. NAPOLITANO. I don't think that alone—meaning fewer visas—would answer the question or the problem itself. From what our studies are beginning to show—and we have not concluded yet, as I have mentioned to you before—the 40 percent that is being attributed to the overstay of visas is a general number reported by the INS because of the fact that they are unable to identify visa overstays because of the numbers, the lack of technology, and because of their personnel deficiencies.

Their technology supposedly—I am not quite sure what the answer is—that they are unable to, after 3 months after the visas have expired, to finally get to those expired visas. To me, it's a matter of maybe applying more in the area of technology, something that would do like a credit card, being able to track it and being able to bring it up at a certain point and being able to track that person before he or she move onto another location, which would normally happen before the end of the expiration of the visa.

What the answer is, sir, I don't know. However, I do believe we need to work together to find that solution.

Mr. CONDIT. If there were fewer visas issued or more scrutiny on the ones that we do issue, what would be the impact on the people already in the country whose families are seeking entry?

Ms. NAPOLITANO. If I understand it correctly, the immigration laws changed a few years back to allow repatriation of family members particularly. The INS apparently has the task of being able to do whatever it takes to be able to enforce that.

In the area you are describing, whether we should have more or less, I don't think that really falls into what we need to do in the enforcement area. I think maybe increasing the dollars and number of personnel to do the job that they have ascribed to them, would be more in line with what they need to do the job.

Mr. CONDIT. More personnel.

Ms. NAPOLITANO. More personnel.

Mr. CONDIT. It's been suggested that possibly 1,000 to 2,000 investigators be added to the personnel.

Ms. NAPOLITANO. That is correct.

Mr. CONDIT. What would you think about that, and what would you think about them going into the communities looking for overstays? Is that a good idea?

Ms. NAPOLITANO. I don't believe that going into communities is a good idea, simply because if they did their job before they waited the 3 months, they would possibly be able to be more effective ear-

lier. We took the tour also, as has been indicated by other people, of the borders. We did talk to the chief at the border at San Isidro and El Paso. We talked to members of the Border Patrol.

They indicate that their lack of personnel is their main reason for their not being able to do a thorough job. When you hear of the thousands of undocumented people that are leaking into this country, there's two sides to look at it.

We traveled during the day. Yes, there were people lined up across the border. In El Paso there's people actually coming on the American site waiting and, according to the Border Patrol, they wait until they commit themselves several blocks down the line. I observed, as did some of my colleagues who took the tour, the Federal police or Mexican law enforcement on the other side watching the proceedings.

In speaking with some of the Mexican news reporters, they indicated to me that the Mexican Constitution requires that Mexican nationals have proper documentation before they leave their country. That is not being enforced. I posed that question to a member of the NAFTA panel at the NCSL hearing in San Diego several weeks ago. He indicated to me that that was their pressure valve release.

That means that they are not really interested in enforcing it because it helps them. I am sorry, and as I indicated to him, Mexico has got to start taking responsibility for some of their own Mexican nationals in what they do. In speaking to the Border Patrol people themselves, both in San Isidro and in El Paso, they have indicated that when you have employer sanctions that it stems the flow a little while. The rumor mill is going real quickly. It does help in preventing some of the influx.

If you have employer sanctions and if you start enforcing them, it will make a very heavy impact onto the immigration flow.

Mr. CONDIT. What are you proposing in employer sanctions? Do you have a specific proposal?

Ms. NAPOLITANO. From what I understand, there are only something like seven officers assigned to the Los Angeles and Southern California area. Those officers apparently spend a lot of time going through paperwork and not actually doing the visiting and the actual investigative area itself. They are busy filling out forms and doing other paperwork. This came to me from unofficial sources at the Border Patrol.

Mr. CONDIT. You heard earlier, and I am sure that you read it and maybe have been involved in other discussions, about the imposing of the border crossing fee. What do you think of that idea?

Ms. NAPOLITANO. Well, I think it bears study. I do believe that some of the areas like in Texas you already have crossing charges. If you talk to some of—

Mr. CONDIT. You mean there are bridge tolls?

Ms. NAPOLITANO. Right. That means you are going to add to that charge.

Mr. CONDIT. Right.

Ms. NAPOLITANO. The ones that are going to be thoroughly impacted are the merchants on the American side. If you talk to them you are going to find that they are totally opposed to that, because it's going to mean a great big effect on their economy.

Mr. CONDIT. We had a hearing where the mayor of El Paso and some of the other border cities came in, and that's exactly what they said.

Ms. NAPOLITANO. Right.

Mr. CONDIT. What we have been trying to determine is, do you lose revenue more than you gain in collecting the fee.

Ms. NAPOLITANO. Also, when you talk about \$1, it's not going to be enough to do the actual implementation, the actual carrying it out, the personnel and maintenance required. I don't think \$1 is going to do it.

Mr. CONDIT. From my point of view, the \$1 proposal ought to be explored. It's pretty logical just to sit down and see if it pencils out. If it doesn't pencil out and you lose more revenue because people don't come over and shop where they are getting tax dollars, et cetera—

Ms. NAPOLITANO. Right. Also, as you well know, Mexico and other countries do impose airport levy charges, which is something that we should take a look at.

Mr. CONDIT. Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. I was very interested in your statement, and I congratulate you on wading through all those studies. I appreciate your willingness to share some of them with the committee.

Let me ask you, you say in your prepared statement that if employers followed the law, there would be no jobs for undocumented persons, period. How do you feel about something to help the employers so they can follow the law such as the counterfeitproof, tamperproof Social Security card which would be carried by everybody that wants a job in the United States. Are you for it, or are you against it?

Ms. NAPOLITANO. A tamperproof card, as long as everybody else is required to it, I have no problem.

Mr. HORN. Obviously if it was and if you put it under a Xerox and a watermark showed up and so forth and it's made out of the same paper as the few dollar bills we all carry, that ought to help in terms of fraudulent duplication.

Ms. NAPOLITANO. Right. The only thing, how many employers would be able to afford to have such a checking device?

Mr. HORN. I am saying if it could be designed. As the attorney general said, it's about time the Federal Government got into the 20th century.

Ms. NAPOLITANO. I agree.

Mr. HORN. It could be designed so if they put it under the light, that watermark would be revealed. It would be reproducible in the employer record. Obviously you can also check, as most people with credit cards do check, to see if there are 10,000 people using the same number should the fraudulent copiers—

Ms. NAPOLITANO. That would be reported immediately.

Mr. HORN. Then you can deal with it. Even if you dealt with it on a delay, if the person was hired and still there, you would at least know within a certain time whether that card cleared.

Ms. NAPOLITANO. One of the suggestions, sir, that has come to the committee is that the employers have the ability to make copies of it, of course, and keep it on file, but that they have a number

that they should be able to call and verify exactly what you are saying. That has been a suggestion to the committee.

Mr. HORN. I noticed in your testimony you also mentioned the asset seizure approach that is being taken by some of the Latino caucus. Obviously, if there were no foolproof, counterfeitproof, tamperproof identify card, it seems to me that one of the things, if you are an Anglo employer or even a Hispanic employer U.S. citizen and you don't want your property seized by making a mistake, is that it's going to create a prejudice against legitimate Hispanic workers if you think maybe the documentation is fake just because they happen to be of the same ethnicity as a lot of people faking documentation.

Isn't that proposal, if that was enacted without the tamperproof card, just simply leading to encouraging discrimination against legitimate United States Hispanic workers, either citizens or green carders or eight-generation Hispanics.

Ms. NAPOLITANO. That's very true. You can look at it both ways. It has been discussed and it has been disputed, that it would cause discrimination against Latinos—because they are the first ones that are identifiable and are in the greatest numbers. Still, there has to be a way to deal with it.

My contention, and the reason why the select committee was requested, was to be able to look at the impact of all immigration. There had recently been two bills proposed, one in the Senate and one in the assembly. In fact, there were 20 in the assembly that dealt strictly with dealing with the illegal immigrant issue.

One particular one that was rather outstanding was that the DMV require new—people coming in requesting driver's license—proof of citizenship or legal status in California. My question to the director of the DMV was, "Would you be asking it of every person that came to the window, regardless of their race or color, whether it be black, green or yellow, whatever." I said, "Would you tell me what the cost is?" And he couldn't give me a cost. He was supposedly supporting the bill.

Along comes Senator Alquist in his bill, the same bill, and now he states the DMV is set against it because it's going to cost the State \$1.1 million. He had apparently not looked at it.

I have no problem with it if every single person is subjected to the same thing. We are finding out that there are pools of illegal immigrants, Irish, German, Russian. Yet, because they speak English they are not considered illegal immigrants. Nobody bothers them.

Some of the reports that have been looked at, some of the figures that have been handed us—especially through the government office—are based on LEP figures which are based on people who cannot speak English or are limited proficient in English, mostly Hispanic.

Mr. HORN. When you say LEP—

Ms. NAPOLITANO. Limited English proficient.

Mr. HORN. Acronyms, I don't understand.

Ms. NAPOLITANO. We deal with them all the time.

Mr. HORN. I want the people reading the report to understand it.

Ms. NAPOLITANO. So that they are based specifically on a certain segment of individuals, that thereby makes that data incomplete.

Mr. HORN. You are absolutely right, we have illegals on all borders and not just the Southwest border. Illegals have been coming into Maine all of this century, every time there's a depression in Canada. Illegals are all over Detroit. One very distinguished Member of Congress told me 15 years ago that if they ever swept his district, half the district would be gone.

Ms. NAPOLITANO. Correct.

Mr. HORN. So it isn't a California problem. It has been perceived to be because of the great numbers of illegals coming into this State, much more than any other State and much more than any other part of the country.

I would think, frankly, that they can put a dollar figure on it, on maybe the extra minutes it would take a clerk to go over the documents; that's a crazy reason for not approving those bills. It seems to me, as you say, every member ought to be asked for that documentation. If it's a hassle for a few years, it's a hassle for a few years.

Ms. NAPOLITANO. Costs—

Mr. HORN. Just like airport security, you know, some people objected. Most of us who fly are very happy to see airport security.

Ms. NAPOLITANO. It benefits everybody.

Mr. HORN. That's right.

That's all I have, Mr. Chairman.

Mr. CONDIT. Mr. Becerra.

Mr. BECERRA. Just one question, Assemblywoman Napolitano. Your comments, any thoughts on the Governor's proposal, what you might support or object to within his proposal for addressing the immigration issue?

Ms. NAPOLITANO. If he would like to start a second class system in denying education to children, because those children will eventually be some of the people that employ or hire or run a business, it's going to be awful hard not to—it would be a second class system as far as we are concerned. I think that's asinine. They are guaranteed their right to education by the Constitution and by Supreme Court decision.

In regard to denying them health benefits, that poses an entirely different question, as to whether California is willing to remain open and susceptible to disease—whether it be an epidemic, long range costs by those children eventually coming to our hospitals for long term care because they weren't treated at childhood. It poses a lot of great questions for us, and I don't think the Governor really looked at long range before he put out those proposals.

Mr. BECERRA. Thank you.

Mr. CONDIT. You may have said this and it may have been in your testimony. Do you have a thought on the proposed prison transfer treaty program, where we work some arrangement out with foreign countries to transfer the prisoners?

Ms. NAPOLITANO. It was very lightly covered. There is a bill that is also requiring—I think I have it here for you. I will get you more information if you so desire.

In the Latino Caucus and including the Black Caucus, who have joined us in addressing some of our problems, we are all in agree-

ment, that we need to find a way to get either some resolution to the question, whether we have Mexico and the United States rearrange their treaty, whether we establish a prison in Mexico of our own—Mickey Conroy had a bill to build the prison in Mexico—whether we use an empty base, a vacant base strictly for illegal felons and have it funded by the Federal Government. Those are suggestions that have been put before us, how do you address it. I still think that somehow we need to work together to address it. Yes, I believe that they should be deported.

When you request the census of the Mexican Government, the United States Government, and the felon, according to Texas, the last 3 years they have had two returned to Mexico. We thought if Texas is doing it, why can't California do it. The felons don't want to return. Some people think—and there was a bill that was defeated this year in the assembly that would have allowed \$1,000 to be able to fund in the prison the ability for some people to—some of the officers to ask the felons, do you want to return to your country, and it was defeated.

Apparently there are things that we can do but somehow we are not addressing the problem.

Mr. CONDIT. We appreciate you being here this afternoon. You have been very patient and have waited, and we appreciate it very much. The subcommittee is committed to pursue this issue and try to get some justice in terms of what's right for California and the people that are affected by this.

We may be in contact with you for some additional information and assistance. We appreciate your being here very much.

Ms. NAPOLITANO. Love it. The assembly research has many reports that I am sure would be helpful to your committee also.

Mr. CONDIT. Is this the information?

Ms. NAPOLITANO. That's only a very small part. We have piles of it. I only brought the most recent and the most comprehensive.

Mr. CONDIT. If you have any additional information you want to include in the record, you can do that within 10 days.

Ms. NAPOLITANO. Thank you very much.

Mr. CONDIT. Thank you for being here.

Ms. NAPOLITANO. We appreciate you having us.

Mr. CONDIT. We are going to combine a couple of panels. We are going to take panel three now and are going to ask Supervisor Dana, Alan Chancellor, and Kim Belshe to come forward. We do appreciate all of you being here and waiting. We know that this has been a little longer than we anticipated.

Supervisor Dana, why don't we start with you. I know that you have been here a long time. We thought that you were going to be here at a certain time and we have gone well over that time. We apologize to you, and just thank you for your patience with us.

STATEMENT OF DEANE DANA, SUPERVISOR, FOURTH DISTRICT, LOS ANGELES COUNTY BOARD OF SUPERVISORS, ACCOMPANIED BY MANUEL MORENO-EVANS, PROJECT DIRECTOR

Mr. DANA. I have enjoyed what I have heard so far very much. Thank you. Without question, the more than 500,000 immigrants who enter California illegally each year along the 14 mile San

Diego border sector cost local governments hundreds of millions of dollars in unreimbursed costs each year.

For Los Angeles County, the cost conservatively is \$400 million net county cost, not counting another \$550 million for recent illegal immigrants and amnesty persons, an amount that heavily strained county resources in good times, but which is a crushing burden during the prolonged recession.

It is a problem that only the Federal Government can correct, both by protecting our borders to stop further fiscal and service erosions. Incidentally, this \$400 million and the \$550 million, this really means that we have \$1 billion of our \$3 billion net county cost attributed to recent immigrants by compensating, and we need to compensate local governments for the ongoing costs created by illegal immigration. That includes the criminal aliens whose presence not only intensifies our dramatic jail overcrowding but who also cost county government over \$75 million annually.

Two studies by the countywide criminal justice coordination committee, the CCJCC, together with the Immigration and Naturalization Service, INS, confirm that at any given time, deportable criminal aliens make up 11 percent of the Los Angeles County Jail population of 17,774. That means over 23,000 deportable criminal aliens pass through our justice system annually.

A followup study found that almost 80 percent of the May 1990 criminal alien county jail inmates were rearrested in this country within 1 year; 87 percent of those rearrests were in Los Angeles County.

The CCJCC's followup study also clearly proves that the revolving door criminal alien pattern here and in 24 other States underscores the urgent need for the Federal Government to take more responsibility for the costs of criminal alien apprehension, incarceration and case processing.

While the numbers have not been documented due to the magnitude of the problem, Los Angeles County is also experiencing a similar dilemma with deportable juveniles who are involved in criminal activities. Beginning in 1990, Los Angeles County, on its own initiative, entered into an agreement to allow for the return to Mexico of juvenile Mexican nationals detained in our central juvenile hall. It is costing the county \$100,000 annually to return a maximum of 144 deportable juvenile criminal aliens.

We worked hard to develop those solutions within our capabilities through effective partnerships with local Federal criminal justice agencies, including an expedited process to significantly increase the number of prosecutions for aggregated felons found guilty of reentering the country after deportation.

Support for amended Federal sentencing guidelines to permit more severe sentencing for reentry violations of aggregated violations provided access to port conviction documents to expedite deportation proceedings for convicted criminal aliens, and implemented an Institutional Hearing Program at the county jail at which immigration judges conduct deportation hearings for convicted criminal aliens before they are released from county custody, the first program of its kind to be conducted in a county jail.

More is needed. Specifically, the Los Angeles County Board of Supervisors has adopted these recommendations for Federal action

regarding criminal aliens. Directly reimburse State and local governments for the cost of processing deportable criminal aliens, including but not limited to, apprehension, investigation, prosecution, defense, court procedures, probation, and incarceration.

Require the transfer of deportable criminal aliens convicted of crimes in State court to Federal custody to serve their sentences, and provide the Department of Justice with adequate correctional facilities through use of the deactivated military installations.

Increase appropriations for INS and the Executive Office for Immigration Review to permit those agencies to expedite and increase the number of criminal aliens apprehended and deported. Authorize funds to increase Border Patrol personnel and allow INS to intensify its efforts along the Southwest border, to reduce the overall flow of illegal immigration.

Authorize and allocate resources for a nationwide automated fingerprint system for deportable criminal aliens. Allow seizure of assets related to profits by alien smugglers or counterfeiters of immigration identification documents. Enhance Federal sentencing guidelines to allow increased penalties for bringing into the United States, harboring illegal aliens, a violation of 8 USC 1324; and, counterfeiting, manufacturing INS documents, in violation of 18 USC 1028; and, urge the Federal Government to negotiate international agreements for incarceration of convicted aliens in their country of origin.

In closing, let me urge the members of the subcommittee to press these and any additional reforms deemed essential with the Members of Congress and the administration that continuing presence of criminal illegal aliens is a serious threat to the well-being of all citizens and the resources of local government.

Anyone that is skeptical about the seriousness of the problem should spend one evening at the San Diego border. The Border Patrol chief, Gusty Lapina, has told me 1,500 additional agents to supplement the existing 1,077 would create a situation that would not only reduce the flood of people but ease stress and violence.

Adding the 1,500 agents at the San Diego border is something that can be done now, unlike the proposed \$2.5 billion cost of issuing every worker a tamperproof, counterfeitproof Social Security or worker identification card that was stated in the newspaper this week. I was floored; \$2½ billion to create these cards. It isn't going to cost anywhere near that to have an immediate action to slow this problem down at the border.

Or, adding—there's another thing that was mentioned. Adding thousands of INS investigators to help the existing 30 investigators we have in Los Angeles who attempt to police the 215,000 business establishments in Los Angeles County, it's ridiculous.

I have no problem with these other proposals. They ought to be done. But it's essential that we move forward and stop the flow across our borders, which is from a money standpoint and a criminal justice standpoint, it must stop.

I believe that the 500,000 illegal immigrants who violate the 14 mile sector every year receive our top priority, due to the seriousness of our problem here in California. Why? We had a riot in Los Angeles County 16 months ago. Those of us who worked with the President and Governor and worked very closely with the heads of

the various cities, really believe this issue was a major element and it was caused primarily due to the serious crowding this immigration program has developed in the inner city.

I know we have several reports that we are going to discuss here today. The county has devoted a tremendous amount of effort on this. Al Chancellor is here to talk on the countywide criminal justice system report on the impact of repeat arrests of deportable criminal aliens in Los Angeles County. This involved Federal, State, and local people. A tremendous amount of time was spent on this. It was completed during my term on the board of supervisors.

It was exciting, but it really points out what the real problems are with criminal aliens in Los Angeles County.

I also have the second report that has been prepared, called "The Impact of Undocumented Persons and Other Immigrants on Costs, Revenues and Services in Los Angeles County." This is an indepth report, prepared by our internal services department with the co-operation of all departments. We have today our project director who headed the team of people that put this together, Manuel Moreno-Evans, assisted by Irene Reilly from the Health Department and Donna Dunn from the CAO's office, who will be here to answer any questions you may have on this very comprehensive and accurate report.

Thank you.

[The prepared statement of Mr. Dana follows:]

Testimony by

DEANE DANA
Supervisor, Fourth District
Los Angeles County

before the

House Subcommittee on Information,
Justice, Transportation and Agriculture

Tuesday, August 31, 1993

It cannot be said often enough, immigrants who enter this country illegally, especially in California, are generating hundreds of millions of dollars in unreimbursed costs for local governments. This is critically true for Los Angeles County, the magnet for the vast majority of those who successfully pour across the San Diego sector border nightly.

These costs heavily strained County resources in good economic times, but our prolonged economic recession has pushed the burden on our diminished and still dwindling resources to the breaking point. Deepening the problem is the fact that remedial action can only be taken by the Federal government both in protecting our borders to stem further fiscal and service erosions, and in compensating local governments for ongoing costs created by illegal immigration.

It is clear that the Immigration Reform and Control Act of 1986 did little to stem the flood of illegal immigration into California, even though the understaffed Border Patrol apprehended 565,581 undocumented aliens in the San Diego sector alone in Fiscal Year 1992. Nationwide the total was 1.2 million people.

To illustrate the scope of the problem, here in Los Angeles County:

-An estimated 700,000 illegal immigrants and their 250,000 U.S. born citizen-children were living in Los Angeles County as of January, 1992.

-This cost the County some \$400 million in unreimbursed costs for services provided to undocumented aliens and their children, compared to only \$36 million in estimated tax revenues from them in 1991-92.

Broad-based though the problems created by illegal immigrants may be, today, I want to focus your attention on the significant impact created by criminal aliens on Los Angeles County.

That impact on the County's criminal justice system has been measured in two studies conducted by the Countywide Criminal Justice Coordination Committee (CCJCC) together with the Immigration and Naturalization Service (INS).

It has been documented that at any given time criminal aliens make up 11 percent of the Los Angeles County jail population, resulting in over \$75 million a year in local justice system costs. It must be stressed that both figures are very conservative. The cost figures include incarceration, prosecution, defense, court and probation services attributable to criminal aliens.

Again, this is a problem over which Los Angeles County and other local jurisdictions nationwide have virtually no control. Deportable criminal aliens are a Federal responsibility, one that demands direct and immediate relief for state and local governments.

The first CCJCC study found that 1,933 (or 11 percent) of the 17,774 inmates in the County's jail system in May, 1990 were deportable criminal aliens, which translates into over 23,000 deportable aliens passing through the jail system annually.

A follow-up study found that almost 80 percent of the criminal alien County jail inmates in the May, 1990 study who were returned by INS to their countries of origin, had re-entered the country illegally and been

rearrested within one year of their release from County custody. About 87 percent of the rearrests occurred in Los Angeles County.

The hard evidence is that criminal aliens are committing serious crimes in large numbers and that they repeatedly re-enter the justice system at substantial risk to public safety and cost to Los Angeles County.

Although we know of no other county that has so convincingly documented the impact of criminal aliens on the system, information obtained from other states and local jurisdictions indicates this is a problem of national proportions.

Many regions such as California, Los Angeles County, the Southwest Border, Florida and New York have been especially hard hit. The CCJCC's follow up study also clearly proves the "revolving door" criminal alien pattern here and in 24 other states underscores the urgent need for the Federal government to take more responsibility for the costs of criminal alien apprehension, incarceration and case processing.

While the numbers have not been documented due to the magnitude of the problem, Los Angeles County is also experiencing a similar dilemma with deportable juveniles who are involved in criminal activities.

Beginning in 1990, Los Angeles County on its own initiative, entered into an agreement to allow for the return of juvenile Mexican nationals detained in our Central Juvenile Hall, to Mexican officials in Tijuana and reunification with family members in Mexico. It is costing the County \$100,000 annually to return a maximum of 144 deportable juvenile criminal aliens.

We in the County have worked hard to develop those solutions that are within our capabilities, including creating effective partnerships and successful cooperative programs with local Federal criminal justice

agencies. Noteworthy among these programs are:

--An expedited process to significantly increase the number of prosecutions for aggravated felons found guilty of re-entering the country after deportation;

--Supported the amendment of federal sentencing guidelines to permit more severe sentencing for re-entry violations of aggravated felons, resulting in significantly increased prison sentences for those convicted;

--Dedicated local and Federal resources to assist the County in identifying and documenting the severity of the criminal problem in its jail population and the costs to the local justice system;

--Provided access to court conviction documents to expedite deportation proceedings for convicted criminal aliens, and

--Implemented the Institutional Hearing Program at the County Jail under which Immigration Judges conduct deportation hearings for convicted criminal aliens before they are released from County custody, the first program of its kind to be conducted in a County jail.

At the national level, I am pleased to say that Congress has taken two steps targeting criminal aliens: The Anti Drug Abuse Act of 1988 and the Comprehensive Crime Act of 1990. Both acts contain specific provisions to intensify Federal law enforcement efforts aimed at improving identification and expediting deportation of criminal aliens. Similar provisions were incorporated into the Immigration Act of 1990.

More is needed. While these Congressional actions eliminated or diminished certain legal deficiencies in the immigration law, they were not accompanied by an adequate commitment of funds or manpower needed for full implementation in those regions and local jurisdictions most severely impacted by criminal aliens.

These reforms also failed to provide fiscal relief to state and local governments that have had to bear a disproportionate share of justice system costs due to criminal aliens.

What is urgently needed is legislation establishing Federal responsibility for deportable criminal aliens. However, remedial actions and relief should not be limited to state level government. Local jurisdictions, who are most heavily impacted by criminal aliens, should receive direct assistance as they sustain the major portion of overall justice system costs.

Based on CCJCC findings of local government needs, the Los Angeles County Board of Supervisors has adopted the following specific recommendations for Federal action regarding criminal aliens:

--Reimburse states and local units of government to offset the cost incurred in processing deportable criminal aliens, including but not limited to apprehension, investigation, prosecution, defense, court procedures, probation and incarceration;

--Require the transfer of deportable criminal aliens convicted of crimes in state court to Federal custody to serve their sentences and provide the Department of Justice with adequate correctional facilities by authorizing the transfer and conversion of deactivated military installations;

--Increase appropriations for INS and the Executive Office for Immigration Review to permit those agencies to expedite and increase the number of criminal aliens apprehended and deported;

--Authorize funds to increase Border Patrol personnel and further allow INS to intensify its efforts along the Southwest border to reduce the overall flow of illegal immigration;

--Authorize and allocate resources for the development and implementation of a nationwide automated fingerprint system for deportable criminal aliens;

--Allow seizure of assets related to profits by alien smugglers or counterfeiters of immigration identification documents;

--Enhance Federal Sentencing Guidelines to allow increased penalties for (a) Bringing into the United States and/or harboring illegal aliens in violation of 8 USC 1324, and (b) Counterfeiting/manufacturing INS documents in violation of 18 USC 1028, and

--Urge the Federal government, in discussions with other nations, to negotiate international agreements for incarceration of convicted aliens in their country of origin.

In closing, let me urge the members of the subcommittee to press these and any additional reforms deemed essential with the members of Congress and the Administration. The continuing presence of criminal illegal aliens are a serious threat to the well-being of all citizens and the resources of local government.

Thank you.

Mr. CONDIT. Thank you, Supervisor Dana. We now will go to Ms. Belshe, deputy secretary of health and welfare, State of California.

STATEMENT OF S. KIMBERLY BELSHE, DEPUTY SECRETARY OF HEALTH AND WELFARE, STATE OF CALIFORNIA

Ms. BELSHE. Thank you, Mr. Chairman. It's a pleasure to be here. I would like to start by saying we certainly agree with your characterization at the outset of your remarks, that California is really being shortchanged as it relates to our receipt of Federal reimbursement for costs associated with illegal immigration, and certainly welcome your request for us and others to assist you in making the case to the Federal Government as it relates to the costs of illegal immigration.

This is an issue that has been of long concern to Governor Wilson, both as a U.S. Senator and now as a State Governor. Certainly, the problem of illegal immigration as we have been discussing today is a pressing and growing problem. We found, for example, just in the past 4 years the number of people that have crossed the border illegally coming into California could fill the size of a city the size of Oakland.

You look at the city of Los Angeles, when you take into account the illegal immigrants and their children, you have a community of nearly 1 million, which is 1½ times the population of Washington, DC.

The magnitude of California's illegal immigration problem is certainly evident. But what is the impact of this problem on the State? As a result of a Federal immigration policy that has really failed to control the border and has established a series of incentives that encourage people to come into this State illegally to access education, health care, and other benefits, California's taxpayers are spending \$2.9 billion this most recent fiscal year.

In the area of corrections, for example, as we have heard today, the State of California and local governments spend nearly \$500 million on the incarceration and parole of illegal immigrants. Illegal immigrants, we have heard, make up 14 percent of the State's prison population and between 9 and 11 percent of the jail population, and the growth has been considerable. In just the past 5 years we have seen the number of illegal immigrants in our State prisons increase fivefold.

In the area of health care, California spends roughly \$800 million to provide federally mandated OBRA health care costs for illegal immigrants. We have seen a tremendous escalation in the number of individuals taking advantage of those services and the cost to the taxpayer. For example, when the program began in 1988, roughly 3,700 illegal immigrants a month had access to the actual emergency care services; 5 years later, fiscal year 1993 and 1994, that number has increased to 101,000 individuals a month and the cost to taxpayers has increased as well, from roughly \$40 million in fiscal year 1988 to roughly \$800 million this current fiscal year.

Additionally, California taxpayers spend roughly \$1.1 billion to educate students who are in this country illegally and more than \$500 million for the welfare and health care benefits for citizen children of illegal immigrants.

California's ability to provide essential services to the legal residents and citizens of our State is really challenged by this increasing tide of illegal immigration. For example, what could California do for California's legal residents with the \$500 million that we are now directing to incarcerate individuals who are in this country illegally and have committed crimes?

We could put a new computer on the desk of every fifth grader in this State, or we could increase by \$3,000 each classroom in every public classroom in California. What could we do with the roughly \$800 million that we are now required to spend to provide OBRA mandated benefits? We could fully restore the kind of cuts that California has been compelled to make in grants to the elderly, blind, and disabled for both last year and this year. We could double the number of women that we are serving in alcohol and drug treatment programs who are pregnant. We could triple the number of pregnant women who are uninsured and low income in terms of prenatal care and so on.

Simply put, given Federal mandates to provide services to illegal immigrants at a cost of roughly \$3 billion a year, Federal policy has effectively compelled us to deny services to legal residents.

There have been a diverse array of proposals that have been put forward at all levels of Government. We have heard a number of them today. All of them acknowledge a need for action. But from Governor Wilson's perspective, none of them really deal with what he considers to be the real root of the problem.

That is a system that has been established by a design or default that essentially provides incentives to illegal immigrants to violate U.S. immigration laws, a system that guarantees access to certain health care, education, and welfare benefits, a system that confers citizenship to the children of parents who have come into this country illegally, and a system that permits an extremely porous border that makes entering the country illegally quite easily.

Governor Wilson earlier this month offered a very comprehensive proposal which he outlined in an open letter to the President that goes a long way to reversing the incentives that encourage people to come into this country illegally and restores control of the border.

First, in an effort to regain control of the border, Governor Wilson has urged President Clinton to use NAFTA as a tool for securing better cooperation and assistance from the Mexican Government to help stop the flow of illegal immigration from the Mexican side of the border.

From his perspective, ratification of NAFTA really is a very unique and important opportunity to secure that type of cooperation in terms of our shared responsibility to prevent illegal immigration. Indeed, ratification could be significantly assisted by this type of cooperation.

But from the Governor's perspective, controlling the border alone is not enough. In fact, there is little point in even having a Border Patrol if we are going to continue to essentially reward or encourage people to come into this country in terms of the types of benefits and services which they can access.

Second, Governor Wilson is urging the President and Congress to repeal the Federal mandates that require States to provide health

care, education, and other benefits to illegal immigrants. From his perspective, if we are really to get serious about gaining control over immigration policy and of our borders, it's imperative that we repeal the incentives that now exist for people to come to this country illegally.

Washington has passed, as we discussed earlier, a series of mandates on the States to provide a wide array of services, but really hasn't come terribly close to meeting its financial obligations to the State. Early this year you will recall that Governor Wilson joined with many of you in terms of impressing upon the President and the Congress the imperative of reimbursing California for roughly \$1.5 billion in costs associated not just with illegal immigration but also with refugee and illegal immigrants who have been provided amnesty.

The California delegation was very helpful in that effort in terms of weighing in with the Clinton administration, and the President did include roughly \$400 million in his budget proposal to compensate States like California, that have been disproportionately impacted by the health care associated with the OBRA mandate. But indeed, those dollars disappeared at the 11th hour and the budget was signed into law without any dollars that recognized those additional costs to States.

Despite the fact that the costs incurred are a direct result of Federal policy, indeed, the only money that California did receive was the \$324 million owed the State through the SLIAG program. The Governor's proposals for Federal action to lift mandates to provide services is really the next logical step.

From his perspective, if the Federal Government cannot or will not reimburse States for the costs of the mandates, then they simply need to relieve the States of those requirements. While Governor Wilson will continue to insist that the Federal Government pay for any services that are mandated upon the States, he does believe that they should in fact be repealed, or they will simply continue to encourage illegal immigration.

Repeal, of course, means that Congress needs to take some additional steps such as to ensure that only legal residents receive Government benefits. In that regard, Governor Wilson believes that Congress should move forward with creating a tamperproof legal resident eligibility card and require it for anyone seeking Government benefits, to ensure that what limited resources we have to go to those individuals who are in the country legally.

Finally, Governor Wilson believes that we really need to fundamentally rethink the very foundation of our immigration laws. The United States has among the most liberal citizenship rules in the world, for example. The Constitution, as we know, has been interpreted as granting citizenship to every child born in the United States, regardless of the legal status of the parent.

From many peoples' perspective, it is somewhat inappropriate or inequitable to be conferring citizenship upon the child of an individual or parent who has come into the country illegally, particularly when we have countless others waiting to enter this country through our legal immigration processes.

It also strikes some as rather illogical to be conferring citizenship status on children whose parents are illegal when, under IRCA,

that parent is not legally supposed to be able to work in our country. Indeed, maybe that helps explain why we see such high dependency rates among the citizen child population. Indeed, we have seen the welfare caseloads for citizen children increase four-fold over the course of the past 5 years. Indeed, it's the fastest growing portion of the State's AFDC population.

Governor Wilson, as part of his plan, has proposed to amend the Constitution to clarify that citizenship is conferred to children whose parents are legal residents or citizens.

Finally, I would note in the area of corrections, the Governor has directed the Department of Corrections in conjunction with the border prison to pursue amendments to current deportation treaties that will make it easier for undocumented felons to be deported. I know that Secretary Sandoval spoke before your committee in early June, so I will not repeat his series of recommendations and proposals.

I would note in closing that President Clinton and Congress did not create the grave problem we are currently facing as it relates to illegal immigration. Rather, the President inherited it. But as many people have noted today, Federal immigration policy of this country is exclusively a Federal responsibility.

Governor Wilson is urging the Congress and urging the President to move without delay in enacting significant substantive reforms of our Nation's immigration laws. We turn to you, our California representatives, to work with him and take those important steps. The Governor and his administration looks forward to working with you and other members of the California delegation to educate and lobby Congress and the administration on these important matters.

We appreciate the opportunity to present testimony today.

[The prepared statement of Ms. Belshe follows:]

S. KIMBERLY BELSHE'S TESTIMONY
FOR HOUSE SUBCOMMITTEE ON INFORMATION, JUSTICE,
TRANSPORTATION & AGRICULTURE LOS ANGELES HEARING

Tuesday, August 31, 1993

Thank you, Mr. Chairman, for inviting me to participate in today's hearing on immigration. My name is Kim Belshé and I am the Deputy Secretary at the California Health and Welfare Agency.

As you are aware, illegal immigration is a pressing and growing problem here in California. Governor Wilson has long been concerned about the rising cost of illegal immigration to state and local governments and last January asked President Clinton and the Congress to pay California for health, social service and incarceration costs for illegal immigrants and their citizen children. Unfortunately, when the final federal budget bill was signed, there was no help provided to those states most heavily impacted by illegal immigrants.

But California's elected officials aren't the only ones concerned about illegal immigration. A recent Field Poll showed that three-quarters of Californians believe that illegal immigration is a serious problem and has a negative impact on the state.

In an on-going effort to stimulate federal action on immigration, Governor Wilson recently called for a fundamental reform of our nation's immigration laws in an open letter to President Clinton.

Governor Wilson strongly supports legal immigration. He believes that if we don't get a handle on illegal immigration, there will be an unfortunate and unfair backlash on legal immigrations.

It is hard not to admire the courage and determination of illegal immigrants. Most people don't fault them for trying to provide a better life for their families in our nation. But there's a limit to how quickly and how many immigrants we can assimilate at once.

During just the past four years, enough people to fill a city the size of Oakland, California have illegally crossed the border into California. In Los Angeles alone, illegal immigrants and their children total nearly a million people.

Let me provide you with some specifics on the state dollars being spent on illegal immigration.

I know that this Committee is primarily interested in the corrections side of the problem, although I will be touching on other issues as well during my testimony. California is spending \$490 million in state and local dollars on the incarceration and parole of illegal immigrants. Illegal immigrants make up 14% of the state prison population and between 9 and 11 percent of the local jail population. The growth in prison population is increasing. Five years ago, there were 5,600 illegal immigrants in state prisons; by 1994, there will be more than 16,000 -- triple the number in just five years.

While some propose deporting incarcerated illegal immigrants to their country of origin as the "solution," it should be noted that a 1990 LA County study reported that almost 80 percent of the deportable immigrants in the LA jail system who INS returned to their country of origin, re-entered the U.S. and were re-arrested within one year of release, with 87 percent of the arrests occurring in LA County.

The state is spending significant state resources on other services. In 1993-94, California taxpayers will spend \$2.9 billion on illegal immigrants and their citizen children. California spends \$750 million for health care for illegal immigrants, \$1.1 billion to educate children in our state illegally, and more than \$270 for welfare and health care for citizen children of illegal immigrants.

But the state budget is not the only impact illegal immigrants have on California.

If we ignore the flood of illegal immigration coming to America, we'll erode the quality of life for all those who live here legally. And make no mistake, our quality of life is threatened by this tidal wave of illegal immigrants.

- And the budgets for our parks, beaches, libraries, and public safety will continue to suffer while we spend billions to incarcerate enough illegal immigrants to fill 8 state prisons.
- Our classrooms are already bursting, and by federal law they're open to anyone who can clandestinely slip across our 2,000 mile border.
- Our public health care facilities are being swamped, and two-thirds of all babies born in L.A. public hospitals are born to parents who have illegally entered the U.S.

And it's hard-working recent legal immigrants who will suffer the most from our failure to deal with illegal immigration.

Research by the economist Dr. George Borjas, one of the nation's leading experts on immigration, has found that each new wave of immigration drives down the wages, not of native-born workers, but of previous immigrants. Legal immigrants suffer lower wages and the loss of jobs when illegal immigration grows.

Because Washington forces us to fund services for illegal immigrants, it means we have to cut nearly three billion dollars worth of health care, education and other services that are needed and would otherwise be available for legal residents of California.

What could we do with the nearly \$500 million we spend on incarcerating illegal immigrants?

- We could spend another \$3,000 per classroom, or \$125 per student in every California public school.

What could California do for its residents with the \$750 million we spend on federally mandated medical services for illegal immigrants?

- We could fully restore the grant cuts to the elderly, blind and disabled for this year and next.
- We could double current family planning efforts.
- We could provide drug and alcohol abuse treatment to an additional 25,000 pregnant women; support prenatal care services for an additional 40,000 low-income women; and, provide early mental health counseling to an additional 160,000 school-age children.

But these funds so needed for our legal residents are not available.

The very least we must do is return reason and fairness to America's immigration laws.

The proposals we've heard in recent weeks -- strengthening the border patrol, imposing a toll on those who cross the border, deporting more undocumented felons from our prisons -- all acknowledge the need for action.

But none of them deals with the root of the problem -- incentives by which federal law and immigration policy encourage illegal immigration and indeed reward those who succeed in violating U.S. law by entering the U.S. illegally.

We need wholesale reform. And the root of the problem lies not on our border, but in policies devised 3,000 miles to the east in our nation's capitol.

The law is clear that the federal government alone has jurisdiction, the federal government alone has responsibility for devising and implementing immigration law and policy. Federal failure to deal with the problem is taking jobs from legal residents and killing the American dream for those who suffer that wage and job loss in California and every other state on our southern border.

First, the federal government -- Congress and the Executive Branch -- have failed at controlling the border. So Governor Wilson has asked President Clinton to seek assistance from the Mexican government to help stop the flood of illegal immigrants on the Mexican side of our border. The ratification of NAFTA is a golden opportunity to secure the cooperation of the Mexican government on our shared responsibility to prevent illegal immigration. Indeed, ratification could be significantly assisted by such cooperation. It would fit well with the side agreement on labor sought by those who fear NAFTA will imperil U.S. jobs.

But controlling the border alone isn't enough. In fact, there's little point in even having a Border Patrol if we're going to continue to reward those who successfully violate U.S. law and enter our country illegally.

So second, the Governor is urging Congress to repeal the federal mandates that require states to provide health care, education and other benefits to illegal immigrants. We must repeal the incentives that now exist for people to immigrate to this country illegally. To stem the flow, we must control and turn off the magnet.

Washington passed these mandates with big promises to the states, but has never once come close to meeting its legal obligation to fund them. Earlier this year, Governor Wilson asked the federal government to pay California \$1.45 billion for the cost of federally mandated services to illegal immigrants, illegal immigrants provided amnesty and refugees living in our state. Despite the fact that these costs are incurred as a direct result of federal immigration and refugee policy, California only received \$324 million in State Legalization Immigration and Assistance Grant reimbursement which does not even cover California's costs for the program.

The Clinton Administration promised help for those state disproportionately impacted by OBRA costs for illegal immigrants, but just two weeks ago, Congress stripped from the federal budget \$300 million in reimbursement to the states for illegal immigrant health care, and President Clinton signed that budget into law.

The Governor recent proposals for federal action to lift mandates to provide services is the next logical step in our state's effort to address this problem. The federal government should pay for these mandates as long as they require the states to provide them. But they should in fact repeal them, or they will simply encourage continued illegal immigration.

Repeal of course means that Congress must then take the steps necessary to see that only legal residents receive government benefits. They should create a tamper-proof legal resident eligibility card and require it of everyone seeking government benefits.

Finally, we must fundamentally rethink the very foundation of our immigration laws. The Constitution has been interpreted as granting citizenship to every child born in the U.S., even the child of illegal immigrant parents. Some illegals come to our country to have a child born on U.S. soil so their child can gain American citizenship, which of course renders the child eligible for a host of public benefits.

Just since 1988, the number of children of illegal aliens on our state's welfare rolls has grown more than four-fold.

It's time to amend the constitution so that citizenship belongs only to the children of legal residents of the United States. It is not equitable to be providing citizenship to children born in the U.S. as the result of law-breaking behavior when there are people waiting patiently for the legal right to immigrate to this country. It is also inappropriate to reward such law-breaking behavior by providing those children with all of the rights and privileges that come with citizenship. And it is illogical to grant citizenship to children of illegal immigrants when the parents cannot legally work and, therefore, cannot provide for their children.

In the area of corrections, the Governor has directed the Department of Corrections, in conjunction with the Board of Prison Terms, to pursue amendments to the current deportation treaties that will make it easier for undocumented felons to be deported.

But we also need more help from the INS. In 1990, fewer than half of the undocumented criminals released to the Immigration and Naturalization Service were formally deported. While we understand that the INS is busy, deporting criminals should be a top priority.

President Clinton did not create the grave problem of illegal immigration, he inherited it. But this exclusively federal responsibility now belongs to him and to Congress.

Governor Wilson is urging President Clinton and the Congress to move without delay in enacting these critical reforms to the nation's immigration laws.

Let me say that Governor Wilson is not ignoring steps that can be taken to address illegal immigration at the state level. Last week he announced his support for several bills which will ensure that the state government is only providing services to legal residents of the state, including job services and driver's license.

As I have said before, the federal government has primary authority to dramatically impact illegal immigration. The Wilson Administration looks forward to working with you, Congressmen Condit, and your colleagues in the California delegation in our efforts to educate and lobby Congress and the Clinton Administration for serious action in the area of immigration reform.

There is no time to waste. We urge the President and Congress to act without delay.

Thank you and I would be happy to answer any questions.

Mr. CONDIT. Thank you very much.

Mr. Chancellor, commander, Office of the Los Angeles County Sheriff's Department, thank you for waiting and being here today.

STATEMENT OF ALAN L. CHANCELLOR, COMMANDER, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

Mr. CHANCELLOR. Thank you, Mr. Chairman and members of the subcommittee. It's a pleasure to be here and to have the opportunity to testify before you today on a very specific issue that is very important to everybody in this room and certainly the criminal justice system, and that is the impact of criminal aliens on that criminal justice system.

From the perspective of the chair of the countywide task force on criminal aliens in Los Angeles County, I would like to discuss the impact of criminal aliens on Los Angeles County which, like many areas, is suffering under the undue burden of criminal aliens besetting the counties by that problem.

As Supervisor Dana has stated before me, and I will reiterate some of those things, hopefully to deliver them from a slightly different perspective, that is, from a law enforcement background and one who is involved in administering county jails in this particular case.

Criminal aliens do in fact have a major impact on the resources in Los Angeles County and other local jurisdictions. Two studies conducted by the Los Angeles County task force on criminal aliens with the cooperation of our department, the INS, and other justice agencies, have found that criminal aliens have severely impacted the county's already overburdened criminal justice system.

In our first study, we confirmed that criminal aliens comprise over 11 percent of the county's jail population. This is based on a 1-month sample taken in May 1990. With an average daily inmate population of 20,000 to 22,000 inmates, Los Angeles County has the Nation's largest local jail system.

Criminal aliens also represent real cost to the rest of the local criminal justice system. We estimate that deportable aliens cost the County of Los Angeles over \$75 million each year, for prosecution, defense, incarceration, court proceedings, and probation. This is a conservative estimate, in that it only covers costs for actual operations following arrest.

Our county's figures are consistent with those for the California State criminal justice system. A recent study by the State's joint committee on prison construction and operations estimated the criminal aliens make up 12 to 15 percent of the State's inmate population, at a cost exceeding \$350 million.

Very significantly, we have established that deportation alone will not solve the criminal alien problem. The second county study was conducted by our group to analyze the rearrest patterns of those deportable criminal aliens that we had identified in our original study. To me as an individual, and I think as an organization, and as a system, this by far was the most illuminating look at the immigration system or the lack of one that we have in the country.

We had initially looked at 1,933 individuals in the first study. We sought to follow those individuals up over a succeeding 1 year period of time, to determine just exactly what their rearrest pat-

terns were. Surprising to some, not surprising to others, over 50 percent of those defendants were returned by Federal officials to their country of origin either by voluntary removal or formal deportation.

Over 40 percent of those individuals were rearrested an average of two times during the months following the May 1990 study. A staggering figure attached to that was that 1,536 of those same defendants had accounted for a total of 10,989 arrests throughout the United States between 1988 and February 1992, with contacts in California in 24 other States. To me that was a staggering figure, and one that I reeled from for more than a little while.

In short, the studies, we believe, documented the perceived revolving door cycle of illegal immigration and criminal activity and confirmed that deportation alone would not discourage reentry into the country, and certainly will not deter criminal behavior.

We believe that criminal aliens must be vigorously prosecuted for violations of law and the convicted offenders serve their entire sentences before they are deported. Federal agencies must also ensure that all convicted criminal aliens be positively identified, formally deported, and aggressively prosecuted for reentry after deportation. Strict enforcement and harsh criminal punishments are essential to combating the problem of criminal aliens.

Effective criminal alien enforcement must increasingly involve intergovernmental cooperation and coordination. The problem is simply too massive for any single level of government or any single government agency to solve. The vast majority of criminal aliens are first encountered by local criminal justice agencies. In fact, most are never identified as deportable aliens and most will never come to the attention of the INS.

Intergovernmental cooperation and coordination is needed to ensure effective strategies for criminal alien apprehension and prosecution.

Los Angeles County and local and Federal criminal justice agencies have developed effective partnerships and successful cooperative programs to combat the criminal alien problem. For example, our cooperative efforts in the Los Angeles County Jail system, along with INS, have led to the implementation of the Nation's first and only Institutional Hearing Program in a county jail facility. The program has resulted in the expeditious deportation of over 423 criminal aliens since its inception in October of last year.

Collaborative efforts have also led to increased Federal prosecutions of convicted criminal aliens for reentry after deportation. Although these prosecutions in Los Angeles are still low, they have increased tenfold since 1989. However, increased numbers of prosecutions are still needed. It is estimated that there will be only 104 prosecutions in the entire Los Angeles district during this fiscal year.

Sentences for reentry after deportation have also been significantly enhanced. In Los Angeles, convictions for a single violation are now resulting in an average Federal prison term of 46 months, compared to 31 months in 1991.

We feel that effective enforcement requires the ability to positively and expeditiously identify and track criminal aliens. A continuing, more vitalized Federal initiative is urgently needed to es-

tablish a nationwide system for identifying and tracking illegal aliens based on computerized fingerprint technology or utilizing the term, automated fingerprint identification system.

Current name base systems are incapable of meeting the demands of criminal alien apprehension and enforcement. Criminal aliens typically rely on multiple identities. The study documented an average of seven aliases were used by each deportable alien. A new automated system would build on existing and planned information systems and link them to criminal history data bases and immigration records which verify prior deportation.

Los Angeles County strongly supports legislation to provide for the transfer of convicted criminal aliens to Federal custody to serve their State sentences. Los Angeles County strongly supports that legislation which correctly acknowledges Federal Government responsibility for the problem of criminal aliens, and that would provide urgently needed relief to State and local jurisdictions by allowing the transfer of convicted criminal aliens in State prisons and in county jails to Federal custody.

Further, such legislation should provide that criminal alien inmates serve their full sentence as proscribed by law. I think an interesting aside to that or a fact not commonly held by persons in the political arena or perhaps outside the criminal justice system itself, is that a distinctly large number of convicted felons don't go to State prison. They are sentenced to spend their time in county jail.

We have in excess of 700 sentenced felons, deportable criminal aliens, serving their sentences in Los Angeles County Jail at the present time. I think it's very important as we look at and consider strategies and have discussions regarding not only reimbursement but the involvement of agencies and jurisdictions in the planning process and development of strategies, that local government be considered in that role as well as State.

Los Angeles County supports legislation to provide reimbursement to State and local units of government, to offset justice system costs associated with deportable aliens. As we said, criminal aliens do represent a major burden on the already strained resources of local government.

Los Angeles County and the State of California, as well as the Southwest border region, the State of New York, Illinois, Florida, and others, are all heavily impacted areas which are experiencing severe budgetary hardships due to criminal aliens. Our studies have clearly documented the revolving door cycle of criminal aliens and the need for Federal accountability for local and State justice system costs.

In summation, I believe we have clearly documented the impact of criminal aliens on local and State government, and we have also proven the urgent need for Federal assistance and leadership in developing a truly coordinated national criminal alien enforcement strategy.

That strategy certainly would include State-sentenced inmates serving their time in Federal prisons, additional resources for additional Border Patrol and INS personnel and services, perhaps the conversion of vacated military sites to accommodate the State prisons and local prisoners, and Federal compensation to States and lo-

calities and regional coordination with the Federal Government, and development of programs that are specific in this case, perhaps referring to the Institutional Hearing Program and others.

Additional prosecution regarding reentry after deportation for criminal aliens would obviously require the need for additional resources for the U.S. Attorney's office. Of course, our concern for the continued initiative being pushed forward with all due speed to develop a true automated fingerprint identification system that would allow all elements of the law enforcement and criminal justice system, national, State, county, and local to pursue adequately addressing the criminal alien problem.

That concludes my prepared statement. Thank you very much.

[The prepared statement of Mr. Chancellor follows:]

STATEMENT OF

COMMANDER ALAN L CHANCELLOR
LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

ON

THE IMPACT OF CRIMINAL ALIENS ON THE CRIMINAL JUSTICE SYSTEM

BEFORE THE

HOUSE GOVERNMENT OPERATIONS SUBCOMMITTEE

ON

INFORMATION, JUSTICE, TRANSPORTATION AND AGRICULTURE

AUGUST 31, 1983

LOS ANGELES, CALIFORNIA

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to testify before you today on the impact of criminal aliens on the criminal justice system. I am Alan Chancellor, Commander with the Custody Division of the Los Angeles County Sheriff's Department. I also chair a Countywide Task Force on Criminal Aliens.

The County commends your interest in the problem of criminal aliens and we strongly urge support of legislation to relieve the unfair burden which this offender population has imposed on local government. Today, I would like to discuss the impact of criminal aliens on Los Angeles County, which like many other areas, has been especially hard hit by this problem. I will also provide other recommendations to further strengthen this nation's criminal alien enforcement efforts.

CRIMINAL ALIENS HAVE A MAJOR IMPACT ON THE RESOURCES OF LOS ANGELES COUNTY

Two studies conducted by the Los Angeles County Task Force on Criminal Aliens in collaboration with the Los Angeles County Sheriff's Department, the Immigration and Naturalization Service (INS) and other justice agencies, have found that criminal aliens have severely impacted the County's already overburdened criminal justice system. We were able to document the heavy impact of deportable aliens on the jail system, the courts and other elements of the justice system including prosecution, defense and

probation. Executive summaries of these studies, which were limited to identified deportable aliens who had been arrested or convicted for criminal offenses under California law, are attached (ATTACHMENTS A & B).

In our first study, we confirmed that criminal aliens comprise over 11% of the County's jail population (SEE CHART #1), based on a one-month sample of jail inmates in May 1990. With an average daily inmate population of 20,000 to 22,000, Los Angeles County has the nation's largest local jail system. This system could be filled to capacity with just the number of deportable aliens who pass through the jail in a 12 month period. Criminal aliens also represent real costs to the rest of the local criminal justice system. We estimate that deportable aliens cost the County of Los Angeles over \$75 million each year for prosecution, defense, incarceration, court proceedings and probation (SEE CHART #2). This is a conservative estimate since it only covers costs for actual operations following arrest and DOES NOT include costs for enforcement, criminal investigation, civil operations or administration.

Our County's figures are consistent with those for the California State criminal justice system. A recent study by the State's Joint Committee on Prison Construction and Operations estimated that criminal aliens make up 12% to 15% of the State's prison population at a cost of \$350 million per year.

DEPORTATION ALONE WILL NOT SOLVE THE CRIMINAL ALIEN PROBLEM

A second County study was conducted to analyze the rearrest patterns of the group of deportable criminal aliens identified in our original study. Of the 1,933 deportable aliens identified, we found that:

- o Over 50% of these defendants were returned by Federal officials to their country of origin either by voluntary removal or formal deportation;
- o Over 40% were rearrested an average of two times during the 12 months following the May 1990 study; and
- o 1,536 defendants accounted for a total of 10,989 arrests throughout the United States between 1958 and February 1992, with documented law enforcement contacts in 24 states outside of California (SEE CHART #3).

Of the 1,318 new arrests recorded in Los Angeles County, 623 or 47% were for alleged drug violations or crimes of violence.

In short, these studies documented the perceived "revolving door" cycle of illegal immigration and criminal activity and confirmed that deportation alone will not discourage re-entry into the country and will not deter criminal behavior. We believe that criminal

aliens must be vigorously prosecuted for violations of law and that convicted offenders serve their entire sentences before they are deported. Federal agencies must also ensure that all convicted criminal aliens be positively identified, formally deported and aggressively prosecuted for re-entry after deportation. Strict enforcement and harsh criminal punishments are essential to combatting the problem of criminal aliens.

**EFFECTIVE CRIMINAL ALIEN ENFORCEMENT MUST INCREASINGLY INVOLVE
INTERGOVERNMENTAL COORDINATION AND COOPERATION. THE PROBLEM IS
SIMPLY TOO MASSIVE FOR ANY SINGLE LEVEL OF GOVERNMENT OR
GOVERNMENTAL AGENCY TO SOLVE.**

The vast majority of criminal aliens are first encountered by LOCAL criminal justice agencies. Most are never identified as deportable aliens and most will never come to the attention of INS. Intergovernmental cooperation and coordination is needed to ensure effective strategies for criminal alien apprehension and prosecution.

Los Angeles County and local Federal criminal justice agencies have developed effective partnerships and successful cooperative programs to combat the criminal alien problem. For example, cooperative efforts between the County and INS have led to the implementation of the nation's first and only Institutional Hearing Program in a County jail facility. This program has resulted in the expeditious deportation of 393 criminal aliens since its inception in October 1992.

Collaborative efforts have also led to new procedures which have increased Federal prosecutions of convicted criminal aliens for re-entry after deportation under 8 U.S.C. Section 1328. Although Section 1326 prosecutions in Los Angeles are still low, they have increased ten fold since 1989. However, increased numbers of prosecutions are needed. It is estimated that there will be only 104 prosecutions in the entire Los Angeles District during this fiscal year. Sentences for re-entry after deportation have also been significantly enhanced. In Los Angeles, convictions for a single violation of Section 1328 are now resulting in an average Federal prison term of 46 months compared to 31 months in 1991.

EFFECTIVE ENFORCEMENT REQUIRES THE ABILITY TO POSITIVELY AND EXPEDITIOUSLY IDENTIFY AND TRACK CRIMINAL ALIENS

The problem of criminal aliens is one of national proportions and a Federal initiative is urgently needed to establish a nationwide system for identifying and tracking criminal aliens based on computerized fingerprint technology. Current name-based systems are incapable of meeting the demands of criminal alien apprehension and enforcement. The criminal aliens typically rely on multiple identities and the Los Angeles County study documented an average of 7 aliases were used for each deportable alien. A new automated system would build on existing and planned information systems and link them to criminal history databases and immigration records which verify prior deportations. The system would link local, state and Federal law enforcement agencies and provide for

more intensified and effectively targeted criminal alien enforcement strategies. Without the technical capacity to positively and expeditiously identify criminal aliens throughout the country, measures such as stricter deportation policies, expedited immigration proceedings, and tougher sentences for re-entry after deportation, alien smuggling and other immigration offenses will offer only partial and very ineffective solutions to the nation's criminal alien problem.

LOS ANGELES COUNTY STRONGLY SUPPORTS LEGISLATION TO PROVIDE FOR THE TRANSFER OF CONVICTED CRIMINAL ALIENS TO FEDERAL CUSTODY TO SERVE THEIR STATE SENTENCES

Los Angeles County strongly supports legislation which correctly acknowledges Federal government responsibility for the problem of criminal aliens and that would provide urgently needed relief to states and local jurisdictions by allowing the transfer of convicted criminal aliens in State prisons and County jails to Federal custody for deportation. Further, such legislation should provide that criminal alien inmates serve their full sentences as prescribed by law.

**LOS ANGELES COUNTY SUPPORTS LEGISLATION TO PROVIDE REIMBURSEMENT
TO STATE AND LOCAL UNITS OF GOVERNMENT TO OFFSET JUSTICE SYSTEM
COSTS ASSOCIATED WITH DEPORTABLE ALIENS**

Criminal aliens represent a major burden on the already-strained resources of local government. Los Angeles County and the State of California as well as the Southwest Border Region, the states of New York, Illinois, Florida and others are all heavily impacted areas which are experiencing severe budgetary hardships due to criminal aliens. The Los Angeles County studies have clearly documented the "revolving door" cycle of criminal aliens and the need for Federal accountability for local and State justice system costs associated with law enforcement, prosecution, defense, court proceedings, incarceration, probation and parole. Local jurisdictions in particular, should receive direct assistance as their justice systems are most heavily impacted by the influx of criminal aliens.

CONCLUSION

In summation, I believe we have clearly documented the impact of criminal aliens on local and State government and we have also proven the urgent need for Federal assistance and leadership in developing a truly coordinated national criminal alien enforcement strategy. This must be a strategy that will bring Federal, State and local government into working partnerships as well as provide direct relief to those local and State jurisdictions that are most heavily impacted by criminal aliens. The need for this Federal responsibility

and leadership role is especially evident in the development and implementation of a national criminal alien tracking system which should be based on a common computerized fingerprint identification standard.

This concludes my prepared statement. I thank you again for the opportunity to testify before you and I will be happy to answer any questions you may have.

www.earthlink.net/~jewell

BIOGRAPHY

NAME: **ALAN L. CHANCELLOR**

LAW
ENFORCEMENT
EXPERIENCE: **LOS ANGELES COUNTY SHERIFF'S DEPARTMENT.**

- COMMANDER
- 30 YEARS EXPERIENCE
- RESPONSIBLE FOR THREE JAILS HOUSING 10,000 INMATES, WITH OVER 900 STAFF
- PREVIOUS UNIT COMMANDER (CAPTAIN) OF 1,800 INMATE HIGH SECURITY JAIL
- PRIOR COMMAND OF MAJOR JAIL CONSTRUCTION PROJECT
- OVER TWO DECADES OF PATROL EXPERIENCE AT VARIOUS RANKS AND ASSIGNMENTS, INCLUDING; SPECIAL ENFORCEMENT BUREAU AND OPERATION SAFE STREETS DETAIL (GANGS)
- CHAIRMAN, COUNTYWIDE CRIMINAL ALIEN SUBCOMMITTEE
- PAST CHAIRMAN, COUNTYWIDE STREET GANGS VIOLENCE SUBCOMMITTEE

CRIMINAL ALIENS IN
THE LOS ANGELES COUNTY
JAIL POPULATION

FINAL REPORT
NOVEMBER 1990

COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE
SUPERVISOR MICHAEL D. ANTONOVICH, CHAIRMAN
AD HOC SUBCOMMITTEE ON CRIMINAL ALIENS

EXECUTIVE SUMMARY

In October of 1989, the Immigration and Naturalization Service (INS) Los Angeles District Office sought the cooperation of the Countywide Criminal Justice Coordination Committee (CCJCC), the courts and local criminal justice agencies in developing new procedures which would expedite the deportation of criminal aliens incarcerated in the County jail system. Since the proposed criminal alien deportation procedures would clearly impact the resources and operations of the local criminal justice system, a major study to define the scope and nature of the criminal alien problem in the County's jail system was implemented. The study, which was a cooperative project involving INS, the Sheriff's Department and CCJCC, entailed a comprehensive screening of all identified foreign-born inmates released through the Inmate Reception Center (IRC) at Men's Central Jail during the month of May 1990.

By targeting only foreign-born inmates released from Sheriff's custody between May 1 through May 31, the study was designed to produce a verifiable statistical profile of all deportable aliens who have passed through the jail system. In order to produce such a profile, INS reviewed inmate records provided by the Sheriff's Department and interviewed appropriate inmates released from custody through IRC. Data collection was an "around the clock" operation requiring a special INS task force which included a total of 31 INS personnel. Investigative agents were assigned in shifts at the release line 24 hours a day, 7 days a week for the entire month.

During the survey period, 3,327 inmates were identified as foreign-born and included in the study. All were individually screened by INS to establish profile information and determine deportability. The number of foreign-born inmates represented 19% of the 17,774 inmates released through IRC, excluding 731 inmates who were work release program participants, extradited, or transferred to hospitals and mental institutions.

Because no immigration status information was available for this latter group, and since place of birth information is established by voluntary declaration by the arrestee or by local law enforcement at the time of arrest or booking, the number of foreign-born inmates identified for this study is probably a very conservative figure. Therefore, the actual number of deportable, criminal aliens passing through IRC is believed to be much higher.

In the course of conducting this study, a large number of aliens (1,933 of the 3,327 identified as foreign-born) were identified as deportable. These individuals, if they had completed their sentences in County jail or completed case processing in the justice system, were immediately taken into federal custody pending deportation proceedings. For those deportable offenders who had been convicted of narcotics violations or serious felonies, certified conviction documents were requested of the courts so that INS could pursue more stringent "criminal alien" deportation proceedings. Deportable aliens transferred to State prison will be arrested by INS upon completion of their sentences.

FINDINGS

In May 1990, a total of 17,774 inmates were released from custody through IRC. Of this number, 19% or 3,327 were identified as foreign-born and included in the study. Well over half (1,933) of these foreign-born offenders were subsequently classified by INS as deportable.

11% OF ALL INMATES RELEASED THROUGH IRC WERE DEPORTABLE ALIENS

- 11% or 1,933 of the 17,774 inmates released from the County jail system in May 1990 were classified as deportable aliens.
- Of the total number of foreign-born convicted offenders (435) who had been transferred to State prison, 91% or 398 were deportable aliens.
- Of the total number of foreign-born convicted offenders (2,081) who had completed County jail sentences, 58% or 1,204 were deportable aliens.
- Of the total number of foreign-born inmates (811) who were citation or bond released or released after dismissal of case or verdict of not guilty, 41% or 331 were deportable aliens.

ALMOST 2/3 OF ALL DEPORTABLE ALIENS HAD SERVED SENTENCES IN COUNTY JAIL

- Out of 1,933 deportable aliens released through IRC, 62% or 1,204 had completed County jail sentences and were immediately arrested by INS pending deportation proceedings.

OVER 1/5 OF ALL DEPORTABLE ALIENS RECEIVED STATE PRISON SENTENCES

- Out of 1,933 deportable aliens released through IRC, 21% or 398 were convicted and transferred to State prison.
- Out of a total of 435 foreign-born offenders sentenced to State prison, 91% or 398 were classified as deportable and will be arrested by INS for deportation upon completion of their sentences.

OVER 1/2 OF ALL DEPORTABLE ALIENS WHO HAD SERVED TIME IN COUNTY JAIL HAD BEEN CONVICTED OF NARCOTICS AND OTHER SERIOUS VIOLATIONS

- Of the 1,204 deportable aliens who had completed County jail sentences:
 - 34% had been convicted of narcotics violations
 - 25% had been convicted of crimes against persons

ALMOST 3/4 OF ALL DEPORTABLE ALIENS TRANSFERRED TO STATE PRISON HAD BEEN CONVICTED OF NARCOTICS AND OTHER SERIOUS VIOLATIONS**■ Of the 398 deportable aliens sent to State prison:**

- 41% had been convicted of narcotics violations
- 30% had been convicted of crimes against persons

ABOUT 2/3 OF ALL DEPORTABLE ALIENS WHO HAD BEEN RELEASED WITHOUT CONVICTIONS HAD BEEN CHARGED WITH NARCOTICS AND OTHER SERIOUS VIOLATIONS**■ Of the 331 deportable aliens who were citation or bond released or released after dismissal of case or verdict of not guilty:**

- 33% had been charged with narcotics violations
- 35% had been charged with crimes against persons

CONCLUSIONS

Although the release line study was limited in scope and duration, the study strongly indicates that criminal aliens represent a significant proportion of the overall County jail population. The study specifically revealed that a high percentage of these foreign-born persons, irrespective of residency status, were deportable criminals who had been convicted of serious offenses. Furthermore, a large majority (75%) of the convicted deportable aliens had served their sentences in County jail and were taken into federal custody upon release from IRC. Ninety-one percent of the convicted foreign-born offenders sentenced to State prison were deportable and will be arrested by INS upon completion of their sentences. Drugs and drug trafficking appear to be significant aspects of alien criminal activity since 30% of all deportable offenders had been convicted of narcotics violations.

The data from this study focuses only on the jail population, however, the implications for the entire local justice system are clear. The problem of aliens involved in criminal activity is one that transcends jurisdictional boundaries. It is a national problem that drains resources not only from federal justice agencies but also from local agencies. The number of aliens in the County jail system alone, as shown by the study, indicates that an inordinately high level of law enforcement, prosecutorial, defense, court, probation and correctional resources is expended to process these individuals through the local justice system.

The INS is charged with the task of apprehending and removing criminal aliens, but it cannot be expected to carry this burden alone and to perform it effectively without the full cooperation of both local and federal justice agencies. No single agency can. The problem of criminal aliens in the jail system is monumental and impacts each and every criminal justice agency operating within the County of Los Angeles. Therefore, strong working partnerships between local and federal justice agencies must be developed to effectively reduce the impact and expense of this criminal population on the justice system.

RECOMMENDATIONS

Therefore, the Ad Hoc Subcommittee on Criminal Aliens recommends that the CCJCC urge the Board of Supervisors to:

1. Approve the report on Criminal Aliens in the County Jail System,
2. Reaffirm that criminal aliens are a critical problem that directly impact the operations and resources of the local criminal justice system,
3. Instruct the CCJCC to report back with specific recommendations for cooperative local-federal programs to facilitate the early identification and deportation of convicted criminal aliens, and
4. Instruct the Chief Administrative Office to continue its current efforts to aggressively seek new legislation and changes in federal policies to significantly increase the level of federal resources directed to the Los Angeles County area for the purposes of apprehending, prosecuting, detaining, and removing convicted criminal aliens.

**IMPACT OF REPEAT ARRESTS
OF DEPORTABLE CRIMINAL ALIENS
IN LOS ANGELES COUNTY**

Final Report

July 15, 1992

**COUNTYWIDE CRIMINAL JUSTICE
COORDINATION COMMITTEE**

*Supervisor Deene Dene
Chairman*

*Robert Mimura
Executive Director*

AD HOC SUBCOMMITTEE ON CRIMINAL ALIENS

*Alan L. Chancellor
Chairman*

*Gloria Gomez
Project Manager*

EXECUTIVE SUMMARY

In July 1992, the Countywide Criminal Justice Coordination Committee (CCJCC) concluded a follow-up study of rearrests among deportable aliens and their impact on the criminal justice system in Los Angeles County. This was a longitudinal study of the rearrest patterns of a group of County jail inmates who, upon release from custody in May 1990, were identified by the Immigration and Naturalization Service (INS) as deportable aliens. Both the May 1990 survey and this follow-up study were strictly limited to identified deportable aliens who had been arrested and/or convicted of criminal offenses under California state law. The great majority of persons (83%) included in these studies were, in fact, convicted criminals who should be differentiated from the vast majority of immigrants who have come to the United States and to this County in search of work and a better way of life.

The follow-up study targeted a group of 1,933 deportable aliens who were identified in the May 1990 study, and entailed a comprehensive analysis of local, state and Federal criminal records for the 12-month period beginning June 1, 1990 and ending May 31, 1991. Both research projects were designed to provide information needed for the establishment of new policies and procedures which would expedite the identification of deportable aliens who are convicted of criminal offenses in Los Angeles County.

The original survey in May of 1990 involved a comprehensive INS screening of all identifiable foreign-born inmates released through the Inmate Reception Center (IRC) at Men's Central Jail to determine the extent to which prisoners in the Los Angeles (L.A.) County Jail were deportable under Federal immigration laws. Since all inmates exit the jail system through IRC, this study provided a one-month "snapshot" of the custody population and a statistical profile of persons who were identified as deportable by INS. In May 1990, 17,774 inmates were released through IRC of which 3,227 were persons who had been born outside of the United States. All foreign-born inmates were screened by INS resulting in the identification of 1,933 deportable aliens or 11% of the total number of released inmates. Although a significant number of these individuals were exiting the jail system to be incarcerated in state prison, most were being released after being convicted and serving their sentences in the County jail.

To further understand the impact of deportable aliens on the local criminal justice system, the follow-up study was undertaken to analyze the extent to which deportable aliens are rearrested during a one-year period. This study entailed a comprehensive criminal

records analysis for 1,875 of the 1,933 persons identified during the one-month survey. The review of records provided specific criminal history data, including:

- Number of rearrests
- Number of new convictions
- Most serious new charge for each new arrest
- Most serious conviction for each new arrest
- Sentence type, i.e. probation, jail, prison, fine for each new conviction
- Sentence length for each new conviction
- Number of INS contacts prior to May 1990 and during the year succeeding May 1990

For those defendants who had extensive contact with the criminal justice system, the following data elements were also captured:

- Total number of addresses, compiled from the list of addresses carried in the local automated justice systems as reported by the defendant at each new arrest
- Number of other names ("also known as" or AKAs) used by the defendant

The follow-up study included data retrieved through computer searches of local, state and Federal justice information systems including the Justice Data System, Municipal Court Information System, Juvenile Automated Index, the California Law Enforcement Telecommunications System, the Department of Motor Vehicle System, and the National Crime Information Center System.

FINDINGS

During this study, all 1,933 deportable aliens identified were tracked through the various systems identified above to establish the number of times that they had been recorded in the various systems for arrests prior to May 1990, and Target Year and subsequent arrests and convictions. The data revealed that 1,875 of the original study defendants

were trackable deportable aliens. No verifiable information could be found for 58 defendants. Highlights of the data are as follows:

OVER 50% OF THE 1,933 DEFENDANTS IN THE MAY 1990 STUDY IDENTIFIED AS DEPORTABLE CRIMINAL ALIENS WERE RETURNED TO THEIR COUNTRY OF ORIGIN BY EITHER VOLUNTARY REMOVAL OR DEPORTATION

- 663 deportable criminal aliens were voluntarily returned by INS to their country of origin without formal proceedings, and deportation proceedings were initiated for 311 defendants who were either formally deported or voluntarily returned to their country of origin by INS

OVER 40% OF THE 1,875 TRACKABLE DEFENDANTS HAD BEEN REARRESTED WITHIN ONE YEAR OF RELEASE THROUGH IRC

- Over 40% or 772 defendants had been rearrested during the Target Year (June 1, 1990 through May 31, 1991) following the May 1990 Study
- 772 defendants were rearrested for a total of 1,522 arrests
- The average number of rearrests per person for the 12 month Target period was 1.97

87% OF THE REARRESTS OCCURRED IN LOS ANGELES COUNTY

- 87% (1,318) of the 1,522 rearrests during the Target Year occurred within Los Angeles County

29% OF THE REARREST CHARGES INVOLVED DRUG VIOLATIONS

- 29% of the rearrest charges involved drug violations followed by 28% for crimes against property

CUMULATIVE ARRESTS TOTALLED 10,989

- Prior to and following May 1990, 1,538 deportable aliens accounted for 10,989 arrests from 1958 to February 1992
- 339 deportable aliens had only one indicated arrest leading to incarceration and inclusion in the May 1990 study
- 87% (9,804) of the cumulative arrests occurred within Los Angeles County

OF THE 772 PERSONS REARRESTED DURING THE TARGET YEAR, 75% (578) WERE KNOWN TO HAVE BEEN CONVICTED

- There were a total of 578 conviction charges with 33% involving drug violations and 32% for crimes against property
- 52% of the defendants received an average of 123 jail days as a condition of probation
- 25% of the defendants received prison sentences averaging 2.7 years

ESTIMATED ANNUAL IMPACT OF DEPORTABLE ALIENS ON THE CRIMINAL JUSTICE SYSTEM IN LOS ANGELES COUNTY IS \$75,165,000

- 11% of the County jail population were estimated as deportable aliens based on the May 1990 study
- Over \$883,318,000 was budgeted by the County for the processing of all adult criminal cases and defendants in FY 1991-92, of which 11% can be attributable to deportable aliens based on CCJCC's May 1990 study of the County jail population

CONCLUSIONS AND RECOMMENDATIONS

This study clearly demonstrates that deportable aliens involved in criminal activity are indeed a burden on the local justice system. The follow-up analysis verifies that significant numbers of deportable aliens who are removed from the country do, in fact, return to Los Angeles County and sustain new contacts with the criminal justice system. Legislation is needed to firmly establish Federal responsibility for this problem, and to provide immediate relief to local jurisdictions.

The data collection and analysis procedures required for the follow-up study revealed other problems. Formal deportation orders against criminal aliens are not routinely shared and there needs to be more effective coordination between Federal, state and local justice agencies in the positive identification and tracking of deported aliens who continue to be involved in criminal activities.

Therefore, the Subcommittee on Criminal Aliens recommends that CCJCC urge the Board of Supervisors to:

1. Approve the report on the Impact of Repeat Arrests of Deportable Criminal Aliens in Los Angeles County

2. Direct the CAO and the County's representatives in Washington D.C. to continue efforts to enact new legislation and Federal policies which will transfer greater financial and legal responsibility for deportable criminal aliens to the Federal government and which will specifically:
 - Establish programs for the transfer of deportable criminal aliens in county jails to serve sentences for state crimes in Federal correctional facilities
 - Provide Federal reimbursement to local jurisdictions for the cost of arrest, prosecution and incarceration of deportable criminal aliens
 - Provide resources to expedite the development and implementation of a nationwide automated fingerprint identification system for deportable criminal aliens
 - Mandate the prompt reporting of criminal alien deportation orders to state and Federal criminal record systems with requirements that all such reports include a standard of positive identification based on the national Automated Fingerprint Identification System (AFIS)
3. Direct the Countywide Criminal Justice Coordination Committee to:
 - Continue cooperative efforts between local and Federal agencies to develop programs which will expedite the positive identification and formal deportation of criminal aliens
 - Work with Federal agencies to develop recommendations for policies and procedures to ensure the timely reporting of criminal alien deportation orders to state and Federal criminal record systems
 - Work with Federal agencies to develop recommendations to ensure greater coordination in the development of Automated Fingerprint Identification Systems (AFIS) for deportable criminal aliens

LOS ANGELES COUNTY JAIL STUDY

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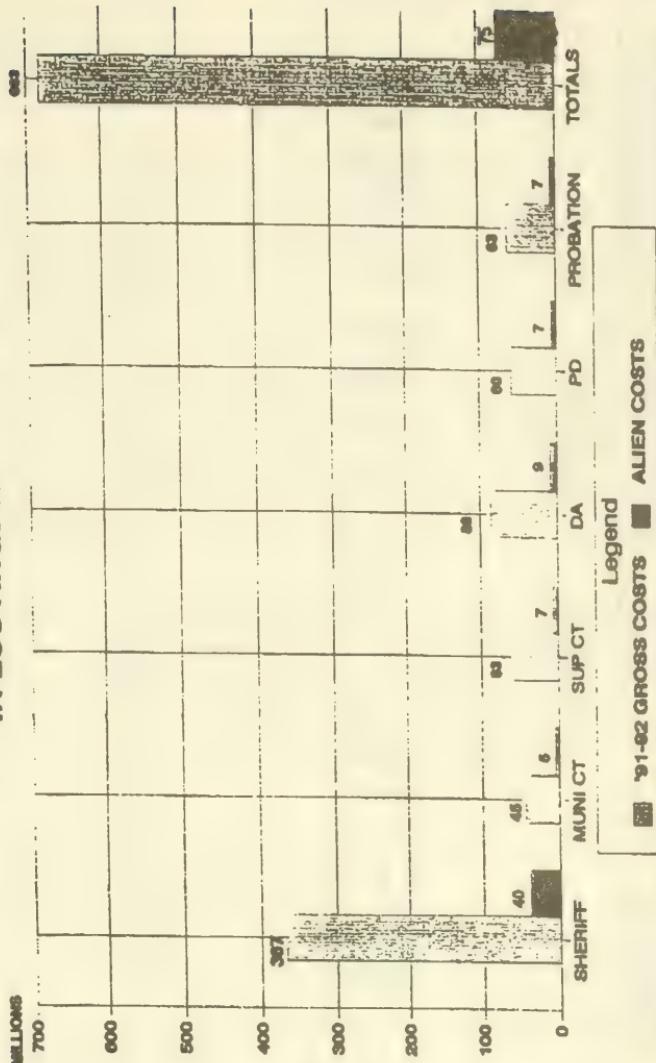
DEPORTABLE ALIENS IN MAY, 1990 STUDY



ANNUAL PERCENTAGE OF ADIP 1990 DEPORTABLE ALIENS



**ESTIMATED COST IMPACT OF DEPORTABLE ALIENS
ON CRIMINAL JUSTICE OPERATIONS
IN LOS ANGELES COUNTY**



Estimates are for operational costs following arrest and, therefore, do not reflect enforcement and criminal investigation costs which are incurred by the 47 law enforcement agencies in Los Angeles County. Also excluded are budget categories for civil operations, administration and other programs not directly related to the processing of adult criminal cases and defendants.

CUMULATIVE/REPEAT
DEPORTABLE ALIEN ARRESTS
1958 - 1992

1,536 = 10,989

WHEN DOES 1,536 = 10,989?

NUMBERS DO NOT INCLUDE MAY, 1990 ARREST STATISTICS (1,933).

Mr. CONDIT. Thank you very much. We appreciate your statement.

Supervisor Dana, you talked about the juvenile program, juveniles that you send back to Mexico. Do they serve their time before they are sent back, or is there some agreement that they go back before?

Mr. DANA. In July 1990, our probation department implemented this program that you are talking about to facilitate the transfer of nonresident alien juvenile offenders to Mexican juvenile authorities. The program policies and procedures were developed jointly by INS, the Mexican Government, the Superior Court, and the probation department.

One of the program's goals is to reunite youths with their families and facilitate rehabilitation in their own country and culture. The target population consists of youths who have no identifiable responsible parties in Los Angeles County to whom they could be released, and those who have had petitions sustained for offenses normally leading to county level placement and those subject to fitness proceedings and those likely to be committed to the California youth authority or State prison. They are not considered in this at all.

Over the 3 year period, 349 minors have been returned to Mexico during this time, and the actual program cost has been \$573,180, which was for transportation, housing, social services, and program management. The program has saved 43,000 bed days in our juvenile facilities, which is a saving of over \$4 million.

Mr. CONDIT. So the yes-and-no answer is that they may not serve their time because it's determined that maybe they are not major offenders—

Mr. DANA. That's correct.

Mr. CONDIT. In your opinion, is there any thought by the county to expand that program?

Mr. DANA. Not certainly in our present budget. The situation that has happened—

Mr. CONDIT. I mean, to go into trying to transfer adult prisoners—

Mr. DANA. To adult prisoners, I don't think this program is going into adult prisoners at all.

Mr. CHANCELLOR. No, it is not.

Mr. DANA. I think we would look more at these programs. When I talk about \$1 billion of our \$3 billion net county cost and \$13 billion budget, you are not talking about adding any programs at all. We are finding out what we can cut every single way that we can.

Mr. CONDIT. My thought was that it would save you money if you transferred more prisoners.

Mr. DANA. Sure.

Mr. CONDIT. I am not sure you should expand. I was just thinking that you might be thinking that it would save you money. I know that the county is experiencing budgetary difficulties, as most counties are.

Can you briefly explain what cuts and services have been made and what future cuts and services that are likely to be cut because of these problems?

Mr. DANA. With the budget, the way it stands today, we would have to close 20 health centers and 4 comprehensive health centers in Los Angeles County. We have major cuts in all of the other departments. We are attempting to solve the problem by having all of our employees take an 8.25 percent pay cut. We are currently having—I think there are 15,000 people down protesting in front of the administration today.

We are short \$215 million in net county costs that we have found no way to recover. That's why I bring this net county cost thing up and the effect of the illegal alien. People think of a \$13.5 billion county budget and then you talk about what we have to provide, which is the \$3 billion, the small amounts of \$215 million becomes a major, major problem.

Mr. CONDIT. Commander, you talked about not being too fond of the prison transfer proposal where we have a foreign country to take the prisoner and come up with some contractual arrangement. You think they should serve their time before they are sent out.

Even if counties and States have to pick up the cost, the IRCA law was passed in 1986; authorizing the Federal Government to reimburse for the costs of these prisoners. What if we are not successful in persuading them to pay? Do you still think they ought to stay here and be housed here without reimbursement?

Mr. CHANCELLOR. Yes. That's not a personal opinion of mine, but one expressed by the composite representatives of criminal justice within the county of Los Angeles. The laws that we have for the country and the State are nothing if we don't enforce them and they are nothing if there is not swift and sure punishment that follows on the heels of that.

If we are not willing to pay the price in one way or another, then certainly we are going to reap the benefits of that also. We feel it's very important that if a person, a criminal as it were, commits a crime that they in fact are incarcerated and pay the price for that.

What we do not agree on is who is paying the price. Federal Government in their inadequate approach to immigration in this particular instance, criminal aliens, really have forced a rather unfortunate situation on local government and the States. As the supervisor indicated, that in the face of some otherwise very severe budgetary concerns for the county—just a month ago we closed one entire jail in the county. About 6 months before that we closed another jail in the county which impacts us to the tune of maybe 3,000 inmates that would have been in custody that are no longer so.

Those beds now, many of them are being occupied by criminal aliens who should not be our wards, and they are taking the beds of people who should be in jail but are on the street under emergency release programs as mandated by the Federal court.

Mr. CONDIT. You testified that a Federal initiative is urgently needed to establish a nationwide system for identifying and tracking criminal aliens based on computerized fingerprint technology. In 1989, Congress gave INS money for the automated fingerprint identification system, intended to positively identify criminal aliens and repeat offenders by implementing a computer based fingerprint system.

What has been your experience with the project, and are you suggesting that the Federal Government expand the project or do something different?

Mr. CHANCELLOR. First of all, no, I have not had any direct contact with the project. I know what the project is. I think by the mere fact that we have had no direct contact with that program or with other planned projects for the INS, short of some very good coordinated efforts here locally, I think says a lot about the way that strategies and computer and identification strategies are being developed on a national level and for the most part without input from localities, regions, or States.

I think the main thrust of our recommendation there is that programs such as the model that we talked about—and that's the San Diego model—is based upon a two print ID system which is somewhat limited. It's an internal organ, one that local government and local and criminal justice agencies do not have input into nor access from.

It is a good beginning on a local internal effort, one which we would like to see speed along. I know that the timeframes for completing many of the goals that they set out in developing an automated fingerprint identification system by the FBI that INS would be able to spin off from is 1997, 1998. That's a long time down the line.

Even then, we don't have the guarantees nor even a distinct feeling that their goals will match with our goals or their technology with ours. Our concern is how they are being developed and the speed with which they are being developed, and the criteria for that development.

Mr. CONDIT. Mr. Horn, I will defer to you.

Mr. HORN. Thank you, Mr. Chairman. I appreciate the testimony of each of you. I think it has been very thorough and very excellent. A couple of questions.

One, I just would like to get agreement, if we can, on what is the cost of the impact of illegal aliens, no matter from what county, on the government of California. Do we have a figure for the state-wide impact for the State government alone or for the State government and all subservient governments under the State government and, if so, what is it?

Ms. BELSHE. The number that we have been using, Congressman, is \$2.9 billion in State costs. That includes costs associated with the overmandate, the health care mandate, education for students who are children who are in this country illegally, incarceration costs, both of the State and county level, as well as included in that \$2.9 billion figure are the welfare and medical costs associated with citizen children of illegal parents, which gets to Congressman Becerra's question earlier that certainly the illegal immigrant, you are quite right, is not eligible for health care benefits and amnesty immigrants are not eligible for a period of 5 years.

We have been focusing as well on the costs associated with the citizen children of illegal immigrants.

Mr. HORN. Let's take it one by one just in these categories. In terms of health care, you are counting the impact on let's say University of California Medical Centers throughout the State.

Ms. BELSHE. No, sir. These are simply State Medicaid or Medi-Cal, as we call it in California, State prison costs and that includes the local jail costs as well on the incarceration.

Mr. HORN. Does it include the prosecution costs at the county level?

Ms. BELSHE. No, it does not.

Mr. HORN. It does not.

Ms. BELSHE. I don't believe so. I know the State number simply takes into account the actual costs of imprisoning an individual.

Mr. HORN. It didn't assign a cost for the judiciary and the time it takes to process illegal cases?

Ms. BELSHE. I don't believe the Department of Corrections has done that at present. The education costs, K through 12, that is State and local funding.

Mr. HORN. You don't include the junior community colleges, 107 of them?

Ms. BELSHE. I don't believe so.

Mr. HORN. Or the senior universities?

Ms. BELSHE. I don't believe we have those numbers, no, sir.

Mr. HORN. There were court orders, as you know, that required admission of children of illegals into the public education system. In essence, you have underestimated the costs, just listening to all of the exceptions here. You haven't counted prosecution, you haven't counted judges, haven't counted community college where there's 108 of them, and the 20 campus CSU system and 9 campus UC system.

Ms. BELSHE. No, sir. It doesn't take into account—again, this is largely a State figure. It doesn't take into account the local costs which certainly the supervisor and the commander can speak to more directly than I.

Mr. HORN. Does it take in costs in relation to State highway patrol, State police, when they are arresting and pursuing illegal aliens at all?

Ms. BELSHE. No, sir.

Mr. HORN. None of those costs. Despite having all that series of exceptions, you come to \$2.9 billion on your figures.

Ms. BELSHE. Focusing on the major entitlement programs, yes, sir.

Mr. HORN. You seem to include some county costs in there. Did you exclude those or include those?

Ms. BELSHE. There are county costs and local costs included, for example, as it relates to educating students from kindergarten through year 12. There are the local jail costs. That's a number that we were aware of, so that's included in the corrections side.

Mr. HORN. AFDC is included.

Ms. BELSHE. It's a State and Federal cost.

Mr. HORN. Right. All Federal-mandated programs carried out by the State.

Ms. BELSHE. Yes, sir.

Mr. HORN. I would like to ask Supervisor Dana the question in terms of Los Angeles County alone, and could you tell us what, if any, overlap are there with State figures and collections which you just heard about?

Mr. DANA. I am going to ask Manuel Moreno-Evans, the project director.

Mr. MORENO-EVANS. In terms of the study that we conducted in Los Angeles County during fiscal year 1991-1992, we analyzed the cost related to four categories: recent illegal immigrants, immigrants illegally residing in the county since 1980, amnesty persons, undocumented persons and citizen children of illegal aliens.

The total county cost related to the four populations we estimated to be approximately \$947 million.

Mr. HORN. This is \$947 million per year?

Mr. MORENO-EVANS. Per year.

Mr. HORN. What years did you take?

Mr. MORENO-EVANS. We used fiscal year 1991-1992.

Mr. HORN. When you are talking about the county costs of children of illegal aliens, these are children born here or children that also came across the border?

Mr. MORENO-EVANS. These are U.S. citizens, children born to aliens.

Mr. HORN. One could argue that whether the county likes it or not or whether the State likes it or not or anybody likes it or not, they are U.S. citizens. Granted, they were illegal aliens or their parents.

I guess what I would like to sort of differentiate is such as AFDC which, if you look at the welfare situation in this country, and it seems unbelievable, but all you have to do is read the New Yorker, on the three generations of welfare in one family, that some people do have children for that purpose, to get that subsidy.

While everybody else with compassion can also deny that, the fact is that that is a subsidy for a family that is one heck of a lot better than living in the countries from which they came. One can argue that is not simply a child subsidy, a child being a U.S. citizen. In fact, I would deduct the child portion. It's a family subsidy, and in that sense it is a subsidy to illegal residents of the United States. But you haven't gone through that exclusion/inclusion, I take it.

Mr. MORENO-EVANS. No. The costs that we identify as being attributable to citizen children of undocumented persons for Los Angeles County came to about \$91 million.

Mr. HORN. The point is, if the mother has no other work and no other visible means of support, that mother is living off the AFDC grant made because there's a child in the house. The child is now a U.S. citizen. You can figure out some way to deduct that child portion that is subsidizing the rest of the family or part of the rest of the family.

Where does this lead us when we sum it up? If the State says \$2.9 billion and they are including some county costs, what does that mean in addition to what the \$2.9 billion is? How would you summarize what Los Angeles County's additional costs are that have not already been counted by the State in that \$2.9 billion figure? Do you have any sort of seat of the pants, off the top of the head figure? Would you like to submit one for the record and do a little mathematics on that, looking at what they are including? They are including some county costs in a statewide figure.

Ms. BELSHE. I can probably get you that number by working——

Mr. HORN. What I want to do is get the rest of the county costs that are not in your figure and some differentiation in some of your costs when you separate out the U.S. citizen, like it or not, versus the subsidy of the parents, which is obvious.

Ms. BELSHE. To be clear, Congressman, it's important to note that on the AFDC side of things, in terms of the citizen children, you are quite right, the grant does go to the illegal parent. The size of the grant is associated exclusively with the number of citizen children in that family.

Mr. HORN. I agree with that. It's just that I deduct living costs for the citizen children and realize that the household is being supported by that grant in numerous cases.

Ms. BELSHE. I see what you are saying.

Mr. HORN. It just seems to me that we ought to get a little closer approximation here. What I have sort of done in just listening to this figure of \$3 billion, in essence—in fact, there's probably a several hundred million dollar undercount there—\$3 billion rounded off is Los Angeles County saying we have about \$1.5 billion of that \$3 billion or we have another billion in addition to the \$3 billion, which would make it \$4 billion, which would make it only 1 of 58 counties if we granted the most significant volume.

Ms. BELSHE. The State figure would include Los Angeles County's cost for jailing the local population as well as local contributions to education.

Mr. HORN. You just said earlier it does not include the prosecutorial costs, the judicial handling costs—

Ms. BELSHE. That's right, it's simply the jailing.

Mr. HORN [continuing]. The probation, simply half of the sheriff's operation, which is the jailing versus the law enforcement operation of the sheriff. There's really a lot of things excluded here. There's a lot of things that could be included.

It would be nice if somehow the Governor could get a task force to just put the best cost estimate possible together throughout the State so that we get a true picture of illegal residents into the State cost. It seems to me that we ought to ask the smaller counties, at least a sample survey or whatever. Maybe the Department of Finance could do it.

Enough on that.

Let me ask Supervisor Dana. You did not seem to be too happy with the idea of a tamperproof, counterfeitproof Social Security card because of cost. Are you saying, Supervisor Dana, that that shouldn't be done? I realize your emphasis is on put more resources on the border. Even if you do that, tomorrow you still have hundreds of thousands, millions probably, of illegal aliens in this country, all over the country, that will still be here as long as employers are able to get away with employing them.

Mr. DANA. No, I support the tamperproof Social Security card. The thing that bothers me is that I have been trying for several administrations now to get the additional forces at the border, through several administrations in fact. There has been a very obvious need for this built up, to where we now have one-half million people or more crossing the 14-mile sector there. It's having a great effect on Los Angeles County and California, generally.

My point is, let's not get all wrapped up in all of these other programs before we do the thing that needs to be done first. Gustav Vilopina down at the border—I have had so many conversations with him. He just says give me 1,500 more and I will stop them. I will slow it down and it will make a measurable difference.

You ask yourself, year after year goes by, 500,000 more each year coming in—the problems I have been observing in my 13 years since I have been on the board of supervisors and it is becoming unmanageable, the criminal aspect of the thing. We didn't do this report on the CCJCC for nothing.

These are a build up of problems, our citizens being killed. We have to meet this problem. Therefore, I want all these other things, too. I think they ought to have more than 30 people at the INS office downtown to process all of these businesses to find out what's going on, too. I don't think we should be going out and spending billions when obviously—I don't know what 1,500 additional officers cost. It certainly isn't \$2.5 billion. Does anyone know what it is? No.

Mr. HORN. I will figure that out later. I am not sure what a Border Patrol gets.

Mr. DANA. Very little, about \$27,000 a year I think.

Mr. HORN. That makes it easier.

Mr. BECERRA. Starting pay is between \$20,000 and \$30,000.

Mr. DANA. It's \$18,000 starting and they build up to—if you have been down there—I have been out there in the field with them at night. I see what they go through and say why would anyone in their right mind do this?

Mr. HORN. OK. Well, the \$60 million and taking the \$30,000 and throwing in benefits and averaging it out over a few years, the \$60 million, we just convinced the Members of the House to vote for. Additional Border Patrol funding would cover roughly 2,000 to 3,000 additional Border Patrol.

Mr. DANA. Over the entire United States.

Mr. HORN. Over the entire United States.

Mr. DANA. We would get 600, I understand.

Mr. HORN. Obviously, if this administration fails as much as the last five administrations—this was brought to the attention, at least by me and others in various capacities, of every single one of those administrations. Most of them have done absolutely nothing. It didn't matter if they were Republican, Democrat, Liberal, or Conservative, they sat on their hands. There are not enough people, and, granted, your Congress has done nothing.

I think Congress is finally hearing from the American people, which, if they listened, they could have heard it 20 years ago. We have had it.

I will tell you what the best argument is that hasn't been mentioned today that gets to Members of Congress. I have mentioned it for years now. I am there and can use it and I have.

I go up to a friend, regardless of party, in an Eastern/Midwestern delegation and just play dumb and say gee, remind me. How many seats did you lose in the last census? We lost one or we lost two. After they say that, I say you are going to lose two more in the year 2000 because those seats are based on illegal aliens who are counted as persons in the 1990 census?

California gained, the Southwest gained, and the Southeast gained. That certainly gets them to think that might be my seat. Once a Member thinks it's his seat, he votes differently. That helps.

Commander, I was very interested in your testimony. What I wonder is, with the various court orders that exist among sheriffs throughout the State, and certainly Orange County had one on releasing people from the jails because they don't meet a constitutional standard, what if any problem has Los Angeles County had, just in deciding who gets released so that you can accommodate all the other types of individuals other than illegal aliens that come in? Has there been any differentiation in how an illegal alien is treated compared to how an American citizen is treated by type of crime? Do you have any feeling for that, one way or the other? Do we let the illegals out first? Do we make any differentiation when we are trying to decide who are the least harmful people to put back on the streets?

Mr. CHANCELLOR. To answer the part about distinguishing classes first, no. The immigrant status of an individual has absolutely no play in who is released or who is retained in custody.

Up until recently, the emergency release population caps, as we might call them, were guaranteed by simply administering percents after a person, regardless of the crime that they were serving a county sentence for, after they had served the particular percentage of time, were simply released. That's how we adjusted the population.

Just recently we have begun to employ a second strategy. That is, we have developed what we refer to as a release level matrix. People are released from custody based upon the threat assessment to the community as derived from the release level matrix.

Mr. HORN. Very good.

Mr. CHANCELLOR. As a result, a person is simply a person, or, if you will, a booking number, taking into consideration the various criminal elements that go into determining who is going to be released. A national status or alien status does not enter into it.

Mr. HORN. Thank you very much.

Mr. CONDIT. Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman.

Commander Chancellor, let me ask you a few questions. Unfortunately, I think I have some answers to some of them. On the idea of upgrading the nationwide automated fingerprint system, it didn't sound like you knew a great deal of what the Federal Government was doing, and obviously you are a county official.

Do you have any ideas of what we should be doing to try to upgrade the system? Do you have any thoughts?

Mr. CHANCELLOR. They have already developed the plans, if you will, that we are rudimentally aware of to develop a system. I think they recognized the need for that quite a while back.

Mr. BECERRA. Is this sufficient, from what you have seen of it?

Mr. CHANCELLOR. I think that eventually it will be sufficient if they attempt to form some partnerships in its development, so that the end product will be capable of serving everyone. I think any particular system that you might develop in this regard or any other identification system is only so good as the input.

As it is presently being administered, the input and the accessibility to their system is internal. It's by INS. We rely on manual and verbal communication to pass that information along. Even in the projected system, for the most part the inquiry and the input is from INS or the Federal side.

What we are certainly capable of doing in partnership with the INS or any other governmental agency that is involved in criminal aliens or any other criminal is taking advantage of the resources of the local government and State government. We are, as we said, probably the people that come in contact by and large with the criminal alien population, not the INS. INS, secondarily. As a result, many more slip through the system than are apprehended or even identified.

They need to really make as part and parcel of any development that they do an ability to flag our systems, State, regional, and Federal, so that local law enforcement has an idea of what they are dealing with and if there's a need for any involvement by INS in regard to those individuals. It does not appear that that's going to be the case, at least now.

Mr. BECERRA. You don't have a very high confidence level that the Federal Government will implement this properly.

Mr. CHANCELLOR. I have a high confidence level that the Federal Government will listen and take heed, and allow concerned parties to participate. I think participation is the key word.

Any time, I think, that we are looking at any strategy to be employed, whether it's criminal aliens or community policing or whatever the case might be, things do not develop well unless they are in partnership.

I think that we have been able to nurture a local partnership with Federal agencies here in Los Angeles that needs to go beyond that.

Mr. BECERRA. I really believe the fingerprint system could really help us in the whole issue of trying to crack down on folks. Any ideas that you have or any other local law enforcement agencies that you know of that may have some ideas, please tell them to get hold of us. I think a number of us would probably be very supportive of trying to put in additional resources into that tracking system the more we understood it.

The second question for you—again, I am probably asking some things that are outside of your jurisdiction. I know that I am hoping that you can help me out. The costs of incarceration in county jail versus a State prison versus a Federal prison, would you happen to have some ideas what are the different costs?

There are some proposals out there floating around that say perhaps we should use some of our bases or military installations that are in the process of being closed down. Perhaps we can use some of those facilities to house some of the inmates. That way, the Federal Government takes on the cost of incarceration of people that are apprehended at a local level.

Do you happen to know what the breakdown of costs would be for incarceration?

Ms. BELSHE. On the State side, and then I will defer to the country folks, of the \$490 million that you have heard a million times

today, \$350 million of that is State prison costs. That is exclusively to house and feed.

So what it doesn't account for—you have heard people speak this afternoon about we have enough illegal felons in our State prisons to hold for another eight prisons. The cost of building a prison is roughly \$200 million. Those are the costs you would avoid by looking to other infrastructure of whatever, such as the defense and so on.

Mr. BECERRA. I am just wondering which jurisdiction is most cost effective in housing prisoners. I don't know if it's because we may have different incarceration laws or not. Obviously, State and local governments want to put the buck rightfully with the Federal Government when it comes to incarcerating prisoners.

I am wondering if the Federal Government also by chance happens to pay less or incur costs that are less than a State or a local government incurs when it comes to incarceration. Ultimately the best way to juggle those prisoners if we are going to keep them here and not deport them, is for the Federal Government to house them. If they could do it more efficiently, that's even another reason.

Ms. BELSHE. Lord knows, if they were to pick up the expense, they sure as heck would find the most efficient way.

Mr. BECERRA. Probably so.

What about anyone on the panel? Any thoughts on whether we should be using military bases or installations to house some prisoners, perhaps the lower-level felons?

Mr. CHANCELLOR. That's a recommendation that we made and have been endorsed by the board of supervisors, that we encourage the conversion and utilization of closed military facilities. Certainly, appropriately, it would be for low-security inmates.

As to who can do it for less, I am not so sure. For us, it's a charge of about \$40 a day per inmate, not to include some other very specific things that would be involved in housing these particular types of inmates. It would certainly be worth a look. I have a feeling that our task force will be doing that for the supervisor when we leave here today, and happily so.

Mr. BECERRA. One last question, sort of law enforcement related. Notary publics are notorious for helping prepare and distribute false documentation. Is there anything that you can think of that we should be doing—it's actually we, meaning State legislators—to try to better watchdog notary publics?

Mr. CHANCELLOR. May I say that one thing has been done by the California Legislature for Los Angeles County is when you close a home, certainly, and I think in all notarization now, you leave your right thumbprint on the notary, which was designed to stop the fraud that went on in Los Angeles County of various home sales.

I just happened to close a home before coming up here in terms of refinancing, and that is now available in Los Angeles County, to have a fingerprint with a signature.

I don't know how much that helps. If you later find you have 20 people coming in some way with the same piece of paper, hopefully you have 20 different thumbprints which would separate out what was fraud and what wasn't.

Mr. BECERRA. I don't think that goes beyond the real estate industry, does it?

Mr. CHANCELLOR. I don't know. The notaries that I have seen—maybe it's all just real estate. They have been taking thumbprints as of this year.

Ms. BELSHE. It's something worth looking into.

Mr. BECERRA. That might be an idea. I don't know if you know of anything else.

Mr. CHANCELLOR. I would respond, very uninformed.

Mr. DANA. I don't know.

Mr. CHANCELLOR. It's a worthwhile inquiry.

Mr. BECERRA. Ms. Belshe, let me ask you a few questions to get a better feel for the numbers that you mentioned, the \$2.9 billion.

Can you give me the source for the \$2.9 billion? I don't mean for you to read back the breakdown of the costs, but just the source for the information.

Ms. BELSHE. The bulk of the figures, Congressman, reflect entitlement costs in Medi-Cal and AFDC. Through the Medi-Cal program, the way the providers bill the State, there's a certain code and it's based upon that code that we are able to come up with numbers in terms of users of services and the cost for those services.

Mr. BECERRA. Is there any one document that you could refer me to that would give me that estimate of \$2.9 billion?

Ms. BELSHE. You bet. It's something that I have written all over, but would be happy to send you a clean copy.

Mr. BECERRA. Please. I would appreciate that.

Mr. HORN. Would you do it for all of us?

Ms. BELSHE. Yes, sir. I have already got that down.

Mr. BECERRA. You mention the cost of undocumented—has the State done any research to estimate how much undocumented contribute to taxes?

Ms. BELSHE. I don't believe the State has done a specific analysis statewide. Certainly, there are a variety of studies and reports that have already come out in San Diego, the auditor general's report, and Los Angeles. We have heard about many individuals who have made extrapolations based upon those county reports.

There was a researcher from Rice University who came out with a report in terms of statewide cost. The State itself has not done a study.

Mr. BECERRA. Any reason why it wouldn't, given that the Governor is claiming that there are certain costs attributed to the undocumented and given that they probably contribute something in taxes that would offset what the costs would be?

Ms. BELSHE. I think it's something worth looking into. I think from the Governor's perspective the question of whether or not an individual should be receiving or be eligible to receive services really shouldn't turn on the question of a cost/benefit ratio, if you will, in terms of their cost versus what they contribute.

Mr. BECERRA. I agree with you, that anyone who is here without documentation does not deserve to be here. But you are implying—but the Governor is implying that there is a cost associated with having these individuals here in this country. If we also know that they provide a benefit through the tax contribution, shouldn't that

be offsetting any numbers that the Governor is quoting with regard to their actual cost to California?

Ms. BELSHE. Certainly. Again, I would go back to the fundamental premise of Governor Wilson's proposal, which is taking a look not just at border enforcement but some of the incentives that encourage people to come across the border illegally to access certain services.

Mr. BECERRA. Let's turn to the incentives that you mentioned before. Can you mention what those were?

Ms. BELSHE. Education for students in terms of K through 12. Those are the figures we have. Health care benefits through the OBRA requirement, which includes prenatal, maternity, and delivery as well as emergency services, as you know.

We have had a debate today of whether or not one characterizes incarceration costs as a benefit. I would agree it's probably not a benefit, but it's certainly a cost to the State and local.

Mr. BECERRA. It's probably a benefit, but not an incentive to come to this country.

Ms. BELSHE. Yes, very true. Certainly, some would argue with conferring citizenship on the children of individuals who come to the country illegally.

Mr. BECERRA. Anything else beyond what you have identified?

Ms. BELSHE. Those are the major programs in terms of the cost. Certainly, there are an array of local programs, and I would defer to Los Angeles County, for which individuals can access services.

Mr. BECERRA. Do you know if the Governor's office disputes any of the figures prepared by the county's study, the report that was prepared by the group commissioned by Los Angeles County?

Ms. BELSHE. I don't know, to be honest with you, whether or not the Governor's office has made any official statement as it relates to the study.

Mr. BECERRA. Mr. Moreno-Evans, let me ask you a couple of questions as it relates to the county study. The study cites that there are close to \$2.25 billion in costs by the immigrant population study, I believe. If you total the education, health care, and criminal justice service cost, it comes up to about \$2.2 billion, I believe.

Mr. MORENO-EVANS. The costs we have identified for Los Angeles County was \$947 million, including all these population groups plus citizen children. In addition, we identified an educational cost to all school districts in the county which came to about \$1.5 billion for all of these populations.

Mr. BECERRA. You are looking at about \$2.4 billion county costs or within the county, whether it was necessarily a cost imposed upon the county government educational services there. The people in the county of Los Angeles ended up incurring a cost of about \$2.4 or \$2.4 billion?

Mr. MORENO-EVANS. Correct.

Mr. BECERRA. Am I correct that your same study found that that immigrant population contributed about \$4.3 billion in taxes to all the different jurisdictions of government?

Mr. MORENO-EVANS. We made an estimate as to what were the revenues contributed by the same population to all levels of government, State and Federal Government, county. That came to \$4.3 billion for 1991, 1992.

Mr. BECERRA. Would it be correct to say that your study found that for the population of immigrants that you studied in Los Angeles County, there was a cost involved with these immigrants of about \$2.4 billion and contributions in the form of taxes of \$4.3 billion?

Mr. MORENO-EVANS. That would be correct.

Mr. HORN. May I ask what the taxes were that were included?

Mr. MORENO-EVANS. Surely. We look at a number of different taxes—probably taxes for Los Angeles County and other jurisdictions, sales taxes for the State and county and cities. We also look at payroll taxes, primarily FICA, Social Security, and Unemployment Insurance. We also estimated Federal income tax and revenue from license fees, gasoline taxes, excise taxes, and revenue derived from lottery sales.

Mr. HORN. I am just curious. I can understand gasoline taxes would be no different than anybody else in terms of having to go to work, et cetera. Excise might be a function of total income. What I am not clear on is Federal income tax, Social Security tax, when we know that hundreds of thousands of people are off the tax rolls for nannies. We have gone through the nanny crisis with Federal nominees—was that figured in?

Mr. MORENO-EVANS. Yes.

Mr. HORN. If so, at what rate?

Mr. MORENO-EVANS. We have a number of studies that have estimated the proportion of taxes paid by undocumented persons. We rely on a number of taxes and estimates, primarily studies by David North, where he estimates that about 56 percent of taxes are withheld from undocumented persons. We made the assumption that approximately 56 percent of taxes are withheld from undocumented.

Mr. BECERRA. You also did not consider business taxes, correct, that these immigrants may have contributed?

Mr. MORENO-EVANS. We did not include revenues derived from contributions from immigrant-owned businesses.

Mr. BECERRA. It would appear, then, from your study that this immigrant population, which included both amnesty immigrants, the undocumented and those of other forms of illegal status—what were the three groups?

Mr. MORENO-EVANS. The three groups were recent legal, immigrants legally residing in the county since 1980—

Mr. BECERRA. And the undocumented.

Mr. MORENO-EVANS. Amnesty and undocumented.

Mr. BECERRA. This population as a whole contributed far more in taxes than it consumed in services in Los Angeles County.

Mr. MORENO-EVANS. The problem that we face in Los Angeles County is that the majority of the taxes contributed by these immigrant groups do not come back to Los Angeles County, but go primarily to the Federal Government. In fact, of the \$4.3 billion taxes raised from this population, about 60 percent went to the Federal Government and about only 3 percent came back to Los Angeles County.

Mr. BECERRA. In fact, we found a ratio of about 18 to 1 Federal receipt of tax dollars from immigrants versus a county receipt of these tax dollars.

Mr. MORENO-EVANS. That would be correct, yes.

Mr. BECERRA. Of course, that falls upon us, again, to find a way to get that money back to the counties and the State where it belongs.

Mr. HORN. Could I just comment if I might, if the gentleman would yield?

Mr. BECERRA. Sure.

Mr. HORN. It seems to me that your three categories, a couple of them aren't relevant to the problem. Recent legal immigrants—I don't know why they are involved in statistics with relation to undocumented illegal immigrants. Amnesty persons—I don't know why they are involved. It seems to me that's past.

The question is, what is the cost of illegal immigration which is coming over the Southern border, 2,000 a night in the San Diego sector, coming into Detroit at I don't know what rate, and now we are attacked by ships?

It seems to me that's what you ought to focus on, not legal immigration. My heavens, we admit 750,000 to 1 million people to this Nation legally. People have waited in line for 8 and 10 years in some countries. We admit more to America than all of the rest of the world combined, legally. That shouldn't be relevant in those figures. It's the illegal.

Mr. BECERRA. If I can go ahead and reclaim my time, I would agree with the Congressman on that point. The problem is, people who cite figures about the costs of undocumented don't bother to distinguish. When they are citing the costs of undocumented and citing the report by Los Angeles County, they don't pull out the fact that this is a study that included research on more than just the undocumented.

I took the time to pull out the figures just for the undocumented. Correct me if I am wrong, Mr. Moreno-Evans. The county costs of undocumented were \$308 million. Let's include the educational costs of \$368 million, for a total of \$676 million. The revenues generated by these just undocumented total \$904 million.

Again, in terms of Los Angeles County costs solely by undocumented immigrants, that cost was exceeded by about \$200-some-odd million by the revenues generated by the undocumented, according to your study.

Mr. MORENO-EVANS. That would be correct.

Mr. BECERRA. What concerns me—I think everyone will agree, including Mr. Moreno-Evans—obviously, any research you do in any study is going to be attacked and also praised for its many aspects. One thing that I think is unfortunate—in fact, I can say abominable in some cases by some politicians—is that they will cite the county study, yet they will not explain nor cite the other aspect of it, which is the contributions provided by immigrants.

I think the real issue that we have all been addressing to some degree is how we get the Federal Government to pay its fair share, whether it's housing criminal aliens that should be housed properly by the Federal Government because they are here because of our immigration laws, or whether it's documenting the fact that some of the immigrants are contributing money through taxes which pay for some of the services they use.

Although I think I understand what the Governor is doing in terms of trying to identify a problem, I think it's unfortunate that the Governor has chosen never once to mention what the contributions by this immigrant population are to finally give a more clear picture of what perhaps the net contributions in many cases might be of even undocumented immigrants.

I make that point, and it's not really a question. I think I am done with my questions. I thank the chairman for his time.

Mr. HORN. Could I say, Mr. Chairman, I think the gentleman has raised an excellent point. In the figures that I have asked for earlier from the State and the county, please separate out the amnesty, the legal immigration. I am not interested in that. I don't think anybody else is.

The question is, what is the incremental cost to the State of California, the counties of California, the cities of California, from the Federal Government's inability to control its borders, which is what a sovereign nation is supposed to be able to do but obviously hasn't been able to do? That's all we want to see is, let us know the incremental cost.

If you can figure out what they have contributed because I can assure you, illegal aliens are not contributing taxes at the rate of legal immigrants to this country, because they are part of an underground economy. If you doubt me, get your roof changed some time. See if he drives up in what truck and probably is paid under the minimum wage.

Mr. BECERRA. If the gentleman will yield. At the same time, undocumented immigrants do not qualify for the same benefits that a legal resident would. A legal resident is entitled to public services. An undocumented person is not. Therefore, it's difficult to come up with a cost.

By the way, higher education UC and community colleges no longer allow an undocumented person to enroll at residency rates. They can enroll, but they have to pay the same amount that anyone from a foreign country would pay. Only Cal State at this stage does.

Mr. CONDIT. We have been at this with this panel for a couple of hours. If I could call on my colleagues, maybe we could bring this to a close.

I would like to indicate to the supervisor that the reports that he has cited today will be a part of the record, if there's no objection to that.

I would only say to the Governor's representative and to Supervisor Dana and the commander that there is one thing that we are going to need and that's the data. As you can tell, when we make the decisions about reimbursement, the data is going to be extremely important to us.

No matter what the policy ultimately becomes for INS, maybe what we like and maybe what we don't like, the reality of it is that the three of us here and the balance of the subcommittee and hopefully a lot of Members of Congress are going to push for what the IRCA law calls for, and that is reimbursement, whatever the immigration policy is. That will be based on evidence and data that we can present to the Federal Government.

I would just call on counties and States—I know INS and the Federal Government has responsibilities in providing good data—wherever you can, lock down good data.

In the final analysis, when we take this to our colleagues, there's only one-half dozen States that are severely impacted, and the rest of our colleagues have to feel comfortable that the data that we present is not phony and that somebody hasn't padded it. I think when it comes right down to it, that's really where this whole thing is going to rest, on whether we can present a good strong case with data.

I might have personal feelings about this proposal by this person or that proposal, but when we finish this, what we are really going to be pushing for is that we reimburse States and counties for the cost of the immigration policy of this country. That's really where we are.

I appreciate all of you being here today. You have been very patient and kind with your time. If you have additional information, you will have 10 days to submit that as well. Thank you, very much.

Cynthia Wishinsky, I know you have been here all day, and I apologize.

Ms. Wishinsky is the Chief Criminal Alien Branch Investigations Division person. Accompanying her—I don't know if she still has her colleagues with her. If you need them, you are welcome to introduce them. Go ahead and make your statement, and we will try to not hold you too long.

STATEMENT OF CYNTHIA WISHINSKY, DIRECTOR, CRIMINAL ALIEN BRANCH, INVESTIGATIONS DIVISION, IMMIGRATION AND NATURALIZATION SERVICE

Ms. WISHINSKY. Thank you very much for inviting me. Mr. Chairman and distinguished members of the subcommittee, I am pleased to have this opportunity to appear before you today on behalf of the Immigration and Naturalization Service to testify on the problems associated with criminal aliens.

The INS regards a criminal alien problem as a major public safety issue. We are gratified to know that members of this subcommittee share our concern over aliens who commit serious crimes within our border. Our goal is simple: to identify, locate, and deport criminal aliens expeditiously.

Criminal aliens strain the resources of our overextended criminal justice system, whether at the Federal, State, or local level. Each year the number of criminal aliens processed through the criminal justice system increases dramatically. Criminal alien deportations increased to 18,297 in fiscal year 1992, double the level of fiscal year 1990 and nearly 30 percent more than fiscal year 1991.

The INS is aware of the problem, and we have developed a solid strategy to stem that increase. The goals of the INS criminal alien strategy are to identify, locate, and initiate removal proceedings against criminal aliens whether or not they are incarcerated, to ensure the expeditious removal of aliens consistent with statutory and regulatory requirements, and to create an effective deterrent against aliens seeking entry into the United States to engage in crime.

In order to accomplish these goals, the INS implemented the Alien Criminal Apprehension Program in 1986. This program is both proactive and reactive. The program pursues the systematic detection and arrest of criminal aliens within the United States both before and after incarceration.

Our proactive operations involve close cooperation between the INS and other law enforcement agencies. Our operations target areas of mutual concern—alien narcotic traffickers, convicted aggravated felons, recidivist and alien criminals representing risk to public safety.

My testimony today, however, focuses more on our reactive strategies. For example, identifying alien offenders already within the criminal justice system to institute deportation proceedings for their removal from the United States. This is an extremely effective and efficient use of INS resources because these aliens have already been arrested and incarcerated, thus minimizing the expense and effort which would otherwise be required for INS to locate and detain them.

Through various initiatives which I will describe, the Service is able to utilize its resources optimally. Section 507 of the Immigration Act of 1990 requires States to ensure as a condition for receipt of Federal grant money establishment of plans to provide to the INS without fee notice of conviction of aliens who have violated the criminal laws of the State. Additionally, it requires the States to provide the INS with certified records of conviction within 30 days of a request by the INS. This provision of the act supports the INS in identifying aliens early in the process and in obtaining the certified records necessary to place criminal aliens in expedited deportation proceedings.

As part of our effort to identify and process criminal aliens in State correctional systems, the INS initiated a five-state criminal alien model. This project focuses limited INS resources on the States having the highest concentration of foreign-born inmates. These States are California, New York, Texas, Florida, and Illinois.

Recent figures indicate that they have a combined total of approximately 35,000 foreign-born inmates in the penal system, which is 12 percent of their total inmate population.

California is fully operational within the five-state model and represents the most extensive pattern of cooperation between INS and the State correctional system as well as the only Institutional Hearing Program at a county facility.

The INS has established centralized locations at particular correctional facilities for rapid identification of incarcerated criminal aliens. Over the last several years, local, State, and Federal authorities have worked together to commence deportation proceedings for criminal aliens incarcerated for crimes committed in the United States. This is called the Institutional Hearing Program.

The IHP is a cooperative program with the Executive Office for Immigration Review, the INS, and the various correctional agencies. It enables the INS and the Executive Office for Immigration Review to begin deportation proceedings for criminal aliens during their incarceration. Currently, there are 6 IHPs within the Federal Bureau of Prisons system, 65 State programs, and 1 county program.

The success of the various State IHPs is a direct result of the efforts and commitment of the Federal and State governments working together. Through continuous liaison with the various Federal and State agencies, the Institutional Hearing Program serves the participating agencies and protects the public.

Within California there are four IHP programs: R.J. Donovan State Prison in San Diego, Calipatria State Prison in Calipatria, the Los Angeles County Jail, and a new facility, the Federal Correctional Institution in Pleasanton, CA. California is the only State that has IHPs in all jurisdictions, Federal, State, and local.

Since the inception of the first Institutional Hearing Program in California, Donovan in 1988, over 5,000 criminal aliens have been deported directly from the participating correctional facilities. With the success of these IHPs, INS is anticipating expansion into one other location within California, Sealy State Prison or Mount Signal, currently scheduled to open in mid-1994.

Where no Institutional Hearing Program exists, the INS continues to pursue other avenues for conducting more expeditious hearing processes for criminal aliens. A pilot project for telephonic hearings of incarcerated aliens was initiated at Marion County Jail in Oregon in December 1992. Advances in technology are also being explored to minimize the travel time required to conduct hearings in remote institutions.

Video technology has been developed for testing at the Institutional Hearing Program in Lexington, KY Federal Correctional Institution. The INS and EOIR are working together on additional measures to improve the program.

For example, on July 21, 1993, a regulation was published which streamlines the mechanism for the admissibility of documentary evidence in the immigration court. The regulation expands the types of documents that will be accepted by an immigration judge to establish a criminal conviction and permits the use of electronically transferred conviction records, transmitted from the States to the INS.

Notwithstanding the success of the IHP, INS continues to receive into its custody criminal aliens who have not received their deportation hearings. To ensure efficient use of its limited resources, INS detains these criminal aliens for expulsion proceedings in several central facilities established for this purpose.

The INS moves aliens who have completed sentences in State and local facilities from locations throughout the country to the Oakdale Federal Detention Center in Oakdale, LA for their immigration hearings. The San Pedro Service Processing Center is also used as a similar center site for criminal aliens on the West Coast.

The INS is also working with the Bureau of Prisons on a 1,000 bed contract facility in the Southwestern United States. The contract was recently awarded and construction will begin shortly in Eloy, AZ. The facility's 500 beds for INS detainees will be occupied by criminal aliens who have completed their State and local sentences, and BOP's beds are expected to be occupied by aliens convicted of Federal crimes.

In December 1991, the INS began entering into the National Crime Information Center's wanted person file the names of criminal aliens who were under a final order of deportation and who ab-

sconded. The first apprehension was made by local police only 4 days after the program was implemented.

As of July 22, 1993, a total of 2,300 wanted aliens had been entered into NCIC. As of that date, there were 247 hits, and of those the INS has effected deportations on 136. The remaining cases are pending judicial review or proceedings initiated by the apprehending department.

In March 1992, the INS forensic document lab produced and distributed a poster listing INS' 10 most-wanted criminal aliens. Due to the high apprehension rate by State and local police, 6 of the original 10 most wanted aliens were apprehended within 1 year, and the INS produced and distributed another "wanted" poster in March 1993.

The U.S. Marshal Service has agreed to pursue the INS' 10 most wanted aliens in a cooperative effort to locate serious offenders. These aliens have been ordered deported based upon criminal convictions and can be immediately removed from the United States upon apprehension.

Each year the number of convicted criminal aliens processed through the criminal justice system increases. The INS continues to rely on criminal prosecutions for reentry after deportation to deter the reentry of criminal aliens into the United States.

Since May 1991, the Los Angeles District Office has successfully presented 129 criminal aliens for Federal prosecution, resulting in 95 convictions and terms of confinement averaging 40 months. The INS believes that the enforcement of this criminal provision of law provides a deterrent to reentry.

These innovations and commitments by California and other States, local law enforcement agencies and the INS working together have greatly aided in the identification, processing, transportation, and expeditious removal of criminal aliens from the United States. These projects assist in meeting the demands the criminal alien population places on INS, the State, and society.

To address the issue of funding for States for criminal aliens incarcerated within the State penal system, section 501 of the Immigration Reform and Control Act of 1986 authorized the attorney general to reimburse States for the costs of imprisonment of illegal aliens or Mariel Cubans who have been convicted of felonies subject to the amounts provided in advance appropriation acts.

INS does not have appropriated resources under this section of law to reimburse the States for the costs of imprisonment of illegal aliens convicted of felonies. The Department of Justice Office of Justice Programs has received an annual appropriation to reimburse States for the imprisonment of Mariel Cuban felons.

In addition, no mechanism exists to transfer prisoners who are serving State sentences to Federal facilities once they are identified as deportable aliens. The INS and the Department of Justice have no authority to detain aliens who have been sentenced by States for violations of State law.

The INS is committed to enforcing immigration law to deter illegal alien entry and presence. We are grateful for the strong congressional support which we have received. The INS believes that a strong partnership between the Federal Government, the States, and local jurisdictions is essential for effective immigration law en-

forcement. This is particularly true when dealing with criminal aliens and the impact these individuals have on the correctional systems.

Again, the identification, location, and removal of criminal aliens from the United States continues to be a priority of the INS, and is an issue that is being addressed at the local, State, and Federal level.

Effective immigration enforcement also requires a balance of interior and border enforcement to address such concerns as aliens working illegally in the United States, the use of fraudulent documents and sophisticated attempts at illegal entry. Border enforcement is very important to deter illegal entry, but it alone cannot solve the Nation's immigration problems.

This administration and the INS intend to do all we can to meet these challenges. We seek your continuing support for our efforts.

That concludes my statement. I would ask that my full statement be included for the record. I thank you for your attention, and will be happy to answer any questions.

[The prepared statement of Ms. Wishinsky follows:]

Testimony of

Cynthia Wishinsky
Director, Criminal Alien Branch
Investigations Division
Immigration and Naturalization Service
Department of Justice

Regarding

Criminal Aliens in the Criminal Justice System

Before The

House Government Operations Committee
Subcommittee on Information, Justice,
Transportation and Agriculture

Tuesday, August 31, 1993

Los Angeles, CA

Mr. Chairman, and distinguished members of the Committee:

I am pleased to have this opportunity to appear before you today on behalf of the Immigration and Naturalization Service (INS) to testify on the problems associated with criminal aliens. INS regards the criminal alien problem as a major public safety issue.

President Clinton's Initiative

On July 27, President Clinton announced a legislative and administrative strategy to address the problems of alien smuggling and mala fide aliens abusing the asylum processes, as well as the continuing flow of illegal migrants across our border. As the President stated, "We must say no to illegal immigration so we can continue to say yes to legal immigration . . . [these] initiatives are about stopping crime -- toughening the penalties for the criminals, and giving our law enforcement officers the tools they need to do their job." Specifically these initiatives are designed for 1) preventing illegal entry into the United States, 2) removing and deporting illegal aliens and alien felons expeditiously, and 3) strengthening criminal penalties and investigatory authorities.

Relating to the focus of this particular hearing, I would like to highlight a few specific aspects of the President's proposal. The President's legislative proposal would establish an expedited exclusion procedure to deal with mala fide arrivals at U.S. airports.

and illegal boat migrants. It also includes provisions for enhanced criminal penalties for alien smugglers, enhanced seizure and wiretap authorities, and a provision that would make alien smuggling a predicate offense under the Racketeer Influenced and Corrupt Organizations (RICO) statute. Another initiative included in the President's proposal is an additional request for \$10.9 million in FY 1994 to expand INS's Institutional Hearing Program (IHP) and the removal of criminal aliens.

Criminal Aliens

We are gratified to know that the members of this Committee share our concern over aliens who commit serious crimes within our borders. Our goal is simple: identify, locate, and deport criminal aliens expeditiously.

Criminal aliens strain the resources of our overextended criminal justice system, whether at the Federal, state, or local level. Each year the number of criminal aliens processed through the criminal justice system increases dramatically. Criminal alien deportation increased to 18,297 in FY 1992, double the level of FY 1990 and nearly 30 percent more than FY 1991. The INS is aware of the problem, and has developed a solid strategy to stem that increase.

The goals of the INS Criminal Alien Strategy are:

- (1) To systematically identify, locate, and initiate removal proceedings against criminal aliens, whether or not incarcerated;
- (2) To ensure expeditious removal of convicted criminals, consistent with statutory and regulatory requirements; and
- (3) To create an effective deterrent against aliens seeking entry into the United States to engage in crime.

In order to accomplish these goals, the INS implemented the Alien Criminal Apprehension Program (ACAP) in 1986. ACAP is both proactive and reactive -- the program pursues the systematic detection and arrest of criminal aliens within the United States, both before and after incarceration.

The INS's proactive operations involve close cooperation between the INS and other law enforcement and criminal justice agencies. Our operations target areas of mutual concern -- alien narcotic traffickers, convicted aggravated felons, recidivists, and alien criminals representing risks to public safety.

My testimony today, however, focuses more on INS's reactive strategies, i.e., identifying alien offenders already within the criminal justice system to institute deportation proceedings for their removal from the United States. This is an extremely

effective and efficient use of INS resources because these aliens have already been arrested and detained or incarcerated, thus minimizing the expense and effort which would otherwise be required for INS to locate and detain them. Through various initiatives which I will describe, the Service is able to utilize its resources optimally.

Section 507, IMMACT 90

Section 507 of the Immigration Act of 1990 requires states to ensure, as a condition for receipt of Federal drug control and system improvement grants, establishment of plans to provide to the INS, without fee, notice of conviction of aliens who have violated the criminal laws of the state. Additionally, it requires the states to provide the INS with certified records of conviction within 30 days of the date of a request by the INS. This provision of the Act supports the INS in identifying aliens early in the process, and in obtaining the certified records necessary to place a criminal alien in expedited deportation proceedings.

The INS and the Bureau of Justice Assistance (BJA) have been working closely with the states to implement this section of law. To date, over 80 percent of the states are in full compliance.

Five State Criminal Alien Model

As part of the effort to identify and process criminal aliens in state correctional systems, the INS initiated a Five State Criminal Alien Model. This project focuses limited INS investigative, trial attorney, and detention and deportation resources on states having the highest concentration of foreign-born inmates. These five states are California, New York, Texas, Florida, and Illinois. The most recent figures indicate that they have a combined total of approximately 35,000 foreign born inmates in their penal systems which is 12% of their total inmate population. Through discussion and agreement among the INS, the Executive Office for Immigration Review (EOIR), State Governors, and State Attorneys General, the Five State Model facilitates cooperative efforts with criminal justice agencies to improve the identification, processing and removal of criminal alien inmates. California is fully operational within the Five State Model and represents the most extensive pattern of cooperation between INS and the state correctional system, as well as the only institutional hearing program at a county facility.

Institutional Hearing Program

The INS has established centralized locations (chokepoints) at particular Federal, state, and local correctional facilities for rapid identification of incarcerated criminal aliens. Over the last

several years, local, state and Federal authorities have worked together to commence deportation proceedings for criminal aliens incarcerated for crimes committed in the United States. This is called the Institutional Hearing Program (IHP). The foreign-born population in both Federal and state institutions is significant, and for the program to work effectively, all of these cases need to be screened by an INS officer. There are currently over 20,000 (approximately 25% of total) foreign-born inmates in Bureau of Prisons institutions and approximately 42,000 (6% of total) in state institutions.

The IHP is a cooperative program of the EOIR, the INS, and various correctional agencies. It enables the INS and the EOIR to begin deportation proceedings for criminal aliens during their incarceration. The program has the potential to significantly reduce INS detention costs by ensuring immediate deportation and removal from the United States upon completion of sentence. In FY 1992, EOIR data indicate that approximately 6,800 cases were completed in the Institutional Hearing Program. INS data show that 18,297 criminal aliens were deported nationwide in FY 1992.

Currently, there are six Institutional Hearing Programs within the Federal Bureau of Prisons system; 65 state programs; and one institutional hearing program in a county facility, the Los Angeles County Jail. The success of the various state IHP's is the direct result of the efforts and commitment of the Federal and state

governments working together. Through continuous liaison with the various Federal and state agencies, the Institutional Hearing Program serves the participating agencies and protects the public.

Within California, there are four IHP programs: (1) R. J. Donovan State Prison, San Diego; (2) Calipatria State Prison, Calipatria; (3) Los Angeles County Jail, Los Angeles, California; and, (4) the Federal Correctional Institution in Pleasanton, California.

Since the inception of the first IHP program in California at R.J. Donovan in 1988, over 5,000 criminal aliens have been deported directly from the participating correctional facilities. Estimates on detention savings exceed a million dollars per year.

The success of the IHP program is the direct result of the efforts and commitment of federal and state government working together. Through continuous liaison with EOIR, the state government, the California Department of Corrections (CDC), and the Los Angeles County Sheriff, the IHP serves the correctional agencies and the public.

With the success of these three IHPs, INS is anticipating expansion to one other location within California: Seely State Prison (Mt. Signal), currently scheduled to open in mid-1994. On August 2 of this year, a new Federal IHP for females began hearings at the Federal Correctional Institution in Pleasanton.

Where no IHP exists, the INS continues to pursue other avenues for conducting more expeditious hearing processes for criminal aliens. A pilot project for telephonic hearings of incarcerated aliens was initiated at the Marion County Jail in Salem, Oregon in December 1992. If this program proves successful, it may be expanded as appropriate.

Advances in technology are also being explored to minimize the travel time required to conduct hearings in remote institutions. Video technology has been developed for testing at the Institutional Hearing Program in the Lexington, Kentucky Federal Correctional Institution. The Immigration Judge and the INS trial attorneys will be physically located in Chicago while the alien and the alien's attorney will be in Lexington. This will eliminate the need for the Immigration Judge and the INS attorney to travel to a remote hearing site.

The INS and EOIR are working together on additional measures to improve the program. For example, on July 21, 1993, a regulation was published which streamlines the mechanism for the admissibility of documentary evidence in the Immigration Court. The regulation expands the types of documents that will be accepted by an Immigration Judge to establish a criminal conviction, and permits the use of electronically transferred conviction records, transmitted from the states to INS.

President Clinton's July 27, 1993 immigration announcement included an initiative to support the prompt deportation of criminal aliens. The initiative includes an additional \$10 million for INS and EOIR in FY 1994 to expand the Institutional Hearing Program in the five states with the greatest populations of incarcerated aliens: California, New York, Texas, Florida, and Illinois. In addition, \$2.4 million has been requested for the Legal Proceedings program for INS attorneys and support staff to handle the increased volume of IHP cases. \$2 million has also been requested for the Executive Office of Immigration Review to complement the increases in INS resources for the IHP.

Centralization of Criminal Aliens

Notwithstanding the success of the IHP, INS continues to receive into its custody criminal aliens who have not yet received their deportation hearings. To ensure efficient use of its limited resources, INS detains these criminal aliens for expulsion proceedings in several central facilities established for this purpose.

Adjacent to the Federal Correctional Institution in Oakdale, Louisiana is a Federal Detention Center (FDC) operated by the Bureau of Prisons. The INS moves aliens who have completed sentences in state and local facilities from locations throughout the country to the Oakdale FDC for their immigration hearings. INS's San Pedr-

Service Processing Center is used as a similar central site for criminal aliens on the West Coast.

INS has also been working with the Bureau of Prisons on a 1,000-bed contract facility in the southwestern United States. The contract was recently awarded, and construction will begin shortly in Eloy, Arizona. The facility's 500 beds for INS detainees will be occupied by criminal aliens who have completed their state and local sentences, and BOP's beds are expected to be occupied by aliens convicted of Federal crimes.

National Crime Information Center

The INS and the Federal Bureau of Investigation reached an agreement on INS use of the National Crime Information Center (NCIC) in June of 1991. In December of 1991, the INS began entering into the NCIC wanted person file the names of criminal aliens who were under a final order of deportation and who had absconded. The INS is notified by the arresting agency whenever one of these aliens is encountered by law enforcement officers in the course of their normal duties. The first apprehension was made by local police only four days after the program was implemented.

As of July 22, 1993, a total of 2,300 wanted aliens had been entered into NCIC. As of that date, there had been 247 hits. The most recent NCIC hit was an alien apprehended by a Philadelphia

Police Officer for leaving the scene of an accident. Of the 247 hits, the INS has effected 136 deportations. The remaining cases are pending judicial review or proceedings initiated by the apprehending department.

In March 1992, the INS Forensic Document Laboratory produced and distributed a poster listing INS's ten most wanted criminal aliens. Due to the high apprehension rate by state and local police, six of the original ten most wanted aliens were apprehended within one year and the INS produced and distributed a second poster in March 1993. The United States Marshals Service (USMS) has agreed to pursue the INS's ten most wanted aliens in a cooperative effort to locate serious offenders. These aliens have been ordered deported based upon criminal convictions and can be immediately removed from the United States upon apprehension. Three of the aliens listed on the new wanted poster have already been apprehended, two by the United States Marshals Service.

The use of NCIC has helped the INS to remove criminal aliens in a timely and cost effective manner and the cooperation of local, state, and federal agencies has been exemplary.

National Criminal Alien Tracking Center

The concept for the National Criminal Alien Tracking Center (NCATC) was developed by INS in response to a Congressional mandat-

(amendment to Section 242 of the Immigration and Nationality Act). The NCATC's goal is to respond on a 24-hour basis to inquiries from more than 24,000 Federal, state, and local criminal justice agencies concerning aliens arrested for aggravated felonies.

The NCATC will be the central point of contact for Federal, state, and local criminal justice agencies querying the immigration status of a suspected alien arrested for committing an aggravated felony. The center will respond to inquiries and convey arrest data to appropriate INS personnel.

Proactive Criminal Alien Activities

Close coordination with various probation and parole officials, as well as local, state and Federal law enforcement agencies has proven to be very effective in identifying and taking into custody those criminal aliens amenable to deportation.

"Operation Double Action," conducted in December 1992 is an example of the results that such cooperation can yield. The operation, involving INS agents in California, Arizona, Texas, Florida, and Louisiana, targeted criminal aliens convicted of serious crimes such as murder, rape, and drug offenses. More than 200 aliens taken into INS custody during the operation had been processed through the criminal justice system and were either on probation or parole.

Each year the number of convicted criminal aliens processed through the criminal justice system increases. The INS continues to rely on criminal prosecutions for reentry after deportation to deter the reentry of criminal aliens into the United States. Since May 1991, the Los Angeles District Office has successfully presented 129 criminal aliens for federal prosecution, resulting in 95 convictions and terms of confinement averaging 38.9 months. INS believes that the enforcement of this criminal provision of law provides a deterrent to reentry.

These innovations and commitments by the California and other states, local law enforcement agencies and the INS working together have greatly aided in the identification, processing, transportation, and expeditious removal of criminal aliens from the United States. These projects assist in meeting the demands that the criminal alien population places upon the INS, the state, and society.

Reimbursement to States for Certain Incarceration Costs

To address the issue of funding for states for criminal aliens incarcerated within the state penal system, Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365(b)) authorized the Attorney General to reimburse states for the costs of imprisonment of illegal aliens or Mariel Cubans, who have bee:

convicted of felonies "subject to the amounts provided in advance in appropriation Acts."

INS does not have appropriated resources under this section of law to reimburse states for the costs of imprisonment of illegal aliens convicted of felonies. The Department of Justice Office of Justice Programs has received an annual appropriation of approximately \$5 million to reimburse states for the imprisonment of Mariel Cuban felons.

In addition, no mechanism exists to transfer prisoners who are serving state sentences to Federal facilities once they are identified as deportable aliens. The INS and the Department of Justice have no authority to detain aliens who have been sentenced by states for violations of state laws.

Conclusion

The INS is committed to enforcing immigration law to deter illegal alien entry and presence. We are grateful for the strong congressional support which we have received. We look forward to the enactment of the additional enforcement authorities contained in the President's initiatives of July 27 and introduced in the Congress as S. 1333 and H.R. 2836.

The INS believes that a strong partnership between the Federal government, the states, and local jurisdictions is essential for effective immigration law enforcement. This is particularly true when dealing with criminal aliens and the impact these individuals have on state and Federal correctional systems. Again, the identification, location, and removal of criminal aliens from the United States continues to be a priority of the INS and is an issue that is being addressed at the local, state, and Federal levels.

Effective immigration enforcement also requires a balance of interior and border enforcement to address such concerns as aliens working illegally in the United States; the use of fraudulent documents; sophisticated attempts at illegal entry; and the manipulation of the asylum process to obtain employment authorization. Border enforcement is very important to deter illegal entry, but it alone cannot solve the Nation's immigration problems. Employer sanctions remain a vital and essential provision of our immigration law and national policy.

This Administration and the INS intend to do all we can to meet these challenges. We seek your continuing support for our efforts.

I thank you for your attention. I would be happy to answer any questions you may have.

Mr. CONDIT. Your statement will be included in the record. We really appreciate you being here today, and we appreciate your patience.

Can you focus for just a moment on the part of your testimony where you talked about the Department of Justice program receiving \$5 million to reimburse the State of Florida for Cuban felons?

Ms. WISHINSKY. To my knowledge, this is moneys that have been set aside or appropriated for strictly Mariel Cubans. No other monies have been appropriated for what you have been talking about today, having the Federal Government reimburse.

Mr. CONDIT. Do you know how that took place and what the rationale behind it is?

Ms. WISHINSKY. No, I don't.

If you need further detail, I can certainly provide that.

Mr. CONDIT. If you could do that for the record.

Ms. WISHINSKY. I will provide something for the record.

Mr. CONDIT. Some rationale, how this took place and why it takes place. Is this in a different category, something special that we have missed? Why are these illegal aliens being treated different in terms of reimbursement?

Ms. WISHINSKY. You mean the Mariel Cubans as opposed to—

Mr. CONDIT. Right, opposed to California or Texas, or anyplace else.

In addition, you also mentioned that no mechanism exists to transfer prisoners who are serving a State sentence to Federal facilities. Is there a feeling amongst the Justice Department and INS that once you are charged with a State crime and convicted you are really not responsible to the Federal Government because you have been charged with breaking a State law and not necessarily a Federal law?

Ms. WISHINSKY. I can't speak for the Department, but we have no authority right now to detain an alien that is sentenced to State time.

Mr. CONDIT. What would it take to change that?

Ms. WISHINSKY. I am not sure. I would say legislation.

Mr. HORN. Is that a regulation or an interpretation of the INS, or is that in a statute?

Ms. WISHINSKY. I am not sure.

Mr. HORN. Could we get that for the record?

Ms. WISHINSKY. Sure.

[The information follows:]

Question: What would it take to enable the transfer of state prison inmates to Federal facilities?

Response: The Federal government does not have the legal authority to assume custody of an alien who has been sentenced by a state judge to a period of incarceration in a state or local penal facility; nor does the state judicial official have legal authority pursuant to a conviction in a state or local court, to incarcerate (or detain the alien if pending trial) in other than a state penitentiary or local detention facility.

Current Federal law permits reimbursement to states by the Federal government of incarceration costs for criminal alien felons, pursuant to a criminal conviction. See 8 U.S.C. § 1365. This statute authorizes funding for reimbursement of costs but funds have never been appropriated for this purpose for other than Mariel Cubans.

It would require passage of Federal legislation to detain or incarcerate a criminal alien in a Federal facility where that alien is being detained or incarcerated pursuant to violation of a state or local criminal offense.

Mr. CONDIT. I appreciate you being candid. We sometimes fail to do that. If we don't know, we don't know. We can always find out the information. If you would be so kind, if we have questions that maybe you don't want to respond to or you are not sure, if we could submit those to you and within a reasonable amount of time get them back—

Ms. WISHINSKY. Sure. No problem.

Mr. CONDIT [continuing]. So that we can include it in the record.

Ms. WISHINSKY. Sure.

Mr. HORN. Actually, maybe to protect you, you would rather have us send this to the Commissioner of INS, which would be a more legitimate approach.

Ms. WISHINSKY. I apologize for not knowing the answer. I work within the Investigation Division and this section deals with deportation. I am not familiar with all the details of their particular—

Mr. CONDIT. It sure raises my interest when I see that Florida is reimbursed and California, Texas, and the other States are not. We are going to focus in on that.

Mr. Horn, do you have any questions?

Mr. HORN. You have given some very helpful and detailed testimony. Have you had an opportunity to read the GAO report that is part of our hearing?

Ms. WISHINSKY. No, I haven't. I am familiar with it, just briefly. I heard about it yesterday and haven't had a chance to go through the entire report.

Mr. HORN. The basic question, I think, whenever you look at a report is, does INS in your own statistical operation have confidence in the analytical techniques it uses to determine the size and flow of the illegal population? I mean, we get border counts of who we send back. It's really tough to know, except maybe by satellite or helicopter or ground monitors, how many are coming in.

We hear all sorts of numbers from all sorts of people, those that want to emphasize it and those who want to minimize it. Where do we look for some reality data?

Ms. WISHINSKY. I know that another division of INS is working on improving and responding to the GAO statistics. I do have one prepared statement in reference to one question that you had sent to the Commissioner of the INS on the report. Any other questions relating to it, I am not prepared to respond.

You had asked one question in relation to what you are asking Congressman Horn, about what action is being taken by the INS to implement GAO's recommendations. If I can read this for the record, this is not my area of expertise, but I would appreciate that—

Mr. HORN. Sure.

Ms. WISHINSKY [continuing]. So that you are familiar with all the information that I have before I go home and leave you.

In reference to the question that you had asked, and it's in the report regarding data on illegal immigration, the General Accounting Office made several specific recommendations for improving the quality of data used to describe immigration flows, which is what you are referring to.

What action is being taken by the INS to implement GAO's recommendations? The INS has recently funded several initiatives

with a goal of improving data on illegal and legal immigration and will produce further estimates of the illegal alien population in the coming year.

The INS provided funding to the committee on national statistics of the National Academy of Sciences to sponsor a meeting of scholars to assess the data requirements for immigration research. The NAS will publish a conference report this fall, with recommendations for improving the data on legal and illegal immigration. The NAS and GAO reports will serve as a guide to improving the data available at INS.

In order to promote cooperation among Federal agencies, the INS organized the interagency working group on immigration statistics last year. The INS and several members of this group will fund improvements to the current population survey in 1994. These improvements will add to the amount of the information available on the foreign-born population and may allow for estimates below the national level.

As GAO reported, better information on the foreign-born population and at more specific levels of geography will improve the estimates of illegal alien populations. The INS will also publish data for the first time on long term visa overstays and detailed estimates on the illegal alien population in a report to Congress this fall.

Mr. HORN. When they say the visa overstay, would that by any chance include those classified as requesting asylum or is that still a further separate category? I have asked them for the data—maybe staff can tell me if it ever came; this was months ago—to tell me what are the requests for asylum, what happened when they were released to come back at a date certain, how many came back, so forth and so on.

Ms. WISHINSKY. The numbers on the overstays, I would imagine, would be based on those who we have information on that came in as a nonimmigrant for a certain duration, a certain period of time.

Mr. HORN. Student visa.

Ms. WISHINSKY. Student visa, visitor visa, whatever, and they overstayed their visa. I would say that those numbers may entail some of the asylum applicants. Like I said, this is certainly not my area of expertise.

I don't know what system they are planning on using to try to separate those numbers, if they are inclusive.

Mr. HORN. Who is the head of that particular unit within INS?

Ms. WISHINSKY. Statistics Division, I have Michael Hoefer. That's who furnished this statement. Hopefully, that helps you out a little bit.

Mr. HORN. That's all I have.

Mr. CONDIT. Mr. Becerra.

Mr. BECERRA. I have one or two questions.

Ms. Wishinsky, what specifically do you do as the Director of the Investigation Division?

Ms. WISHINSKY. I recently became Director of the Criminal Alien Branch. Within Investigations, we have certain branches that deal with certain areas. My area, obviously, is criminal aliens. We have a section branch that deals with employer sanctions, a section that

deals with antismuggling, a fraud section, and a section on organized crime, drug enforcement task force.

Mr. BECERRA. The Investigations Division—what kind of investigations are we talking about?

Ms. WISHINSKY. We do all investigations relating to aliens within the interior. To simplify it, I guess it's simpler to say any alien whom the Border Patrol misses and who come into the interior, is in our jurisdiction, whether he or she is involved in major criminal organizations or whether he or she is sitting in jail. We need to identify them, get them processed, and hopefully get them ordered deported so that we can remove them.

Mr. BECERRA. By the way, how long have you been the Director?

Ms. WISHINSKY. Director, since February. I have been with Immigration for about 11 years.

Mr. BECERRA. Congratulations on the appointment.

Ms. WISHINSKY. Thank you.

Mr. BECERRA. Any thoughts—and I know that you are under some constraints since you are under the INS—about all the discussion that has taken place with regard to having the Federal Government do a better job of reimbursing States and local governments for the cost of housing criminal aliens?

Ms. WISHINSKY. I am really not in a position to talk about that since it is the Department of Justice. I am all for certainly looking at new ways of doing things and more expeditious ways of working smarter within the resource constraints that we have.

Certainly, the suggestions that have been made today, I feel that they bear looking at and warrant further research.

Mr. BECERRA. Thank you very much.

Mr. HORN. Let me ask, on your point of working smarter, has the INS and Justice in this area made any recommendations to Vice President Gore's Reinventing Government group? It seems to me these are some creative things that might encourage the Vice President to explore. Do you know if INS has made any recommendations to the Vice President?

Ms. WISHINSKY. I am not aware of that. I am not saying that they have or have not. I am not familiar with it.

Mr. HORN. Maybe, Mr. Chairman, you might want to suggest to the new Commissioner that INS might think about getting the Vice President on their side.

Mr. CONDIT. That's a good suggestion. Are there any additional questions, Mr. Horn.

Mr. HORN. No, sir.

Mr. CONDIT. In 1992, the INS issued a report entitled "Report on Criminal Aliens," and I think you worked on that report.

Ms. WISHINSKY. Yes, I did.

Mr. CONDIT. It was supposed to contain information regarding the number of aliens incarcerated in institutions who were not lawfully admitted to the United States. There is data regarding the number of foreign-born individuals in Federal and State prisons without identifying whether they are illegal. It does not contain any information regarding individuals located in local jails.

The question is, the Federal law authorizes funding to reimburse States for the costs associated with incarceration of aliens; however, if INS does not collect data regarding the number of illegal

criminal aliens in State and local jails, how will the administration ever know how much money is needed for this program?

Ms. WISHINSKY. That's a good question. Right now, I work frequently with the Bureau of Prisons. We know pretty much how many whom I call foreign-born, for lack of a better term, foreign-born inmates are within their system. I frequently do updates on the survey in reference to that report for State statistics.

Our local offices work on the local level, for instance with the Los Angeles County Jail, in identifying aliens in the larger county jails. For this report, we sent out many questionnaires to the probation/parole offices and the local jails in order to try to determine how many foreign-born inmates were in their system.

We are in the process of consolidating all of that information. It is very time consuming, very labor intensive to do that on a yearly basis, to do a comprehensive survey like that which was required for the report to Congress.

We work as efficiently as we can in order to determine how many foreign-born are in all of the facilities. The bottom line is, we work with the resources that we have. I think we are working very well on the Federal level and on the State level.

Mr. HORN. Am I wrong that foreign-born is a misleading category?

Ms. WISHINSKY. Foreign-born—

Mr. CONDIT. If we are looking at illegal aliens, that's not the same. My father was a legal immigrant to this country.

Ms. WISHINSKY. Legal or illegal.

Mr. HORN. No, he was legal. I would hate to think that had he ever been incarcerated we couldn't separate out what the legal immigrant does just as the legal citizen does, and the legal immigrant could be foreign-born and a U.S. citizen in very good standing.

Ms. WISHINSKY. Granted, exactly.

Mr. HORN. That's why I don't think that's appropriate. You need another category.

Ms. WISHINSKY. Right now—

Mr. HORN. Do you have it?

Ms. WISHINSKY. Right now, the Federal and the State correctional facilities, they don't determine alienage. Immigration officers determine alienage. They can only determine whether the person claims that he was born in a foreign country or claims that he is an American citizen, when he may not be.

That's why I use the term foreign-born, and, as we qualified it in the report, the term foreign-born is, granted, a higher number when you consider that within the number of foreign-born you are going to have people that are naturalized citizens, people who have derived citizenship, people who are lawfully admitted permanent residents who are not deportable based on their crime. On the other hand, you may have aliens that claim that they are from Puerto Rico when in fact they are not.

That's the best number that we have from the Federal Bureau of Prison, and State correctional officers, and local statisticians for county jails. That's the best number that they have.

In order to determine whether each and every one of those prisoners is either a legal alien or an illegal alien, it would take a personal interview by an immigration officer unless we already have

a record on that person. We can tell through what we call an A-file, an alien file, his alienage.

For lack of a better number, I use the number foreign-born and then qualify it by saying some of those are going to be U.S. citizens.

Mr. HORN. Maybe most of them.

Mr. CONDIT. For the sake of what we are getting at, how do you reimburse States for housing undocumented or illegal aliens? We have to have a number. If the Federal Government was forced to adhere to the IRCA law, how would they go about defining this number? How would they go about calculating it, do you have any idea?

Ms. WISHINSKY. I would say the best number to use would be the aliens that we have identified if you are going to do that. I am not saying that I agree with what you are saying here. All I am saying is that in order to get an accurate number, the most accurate number that I could come up with at this point in time would be those aliens that the INS has identified as being a deportable alien or being an illegal alien.

Mr. CONDIT. Is that what they did in Florida, the reimbursement of \$5 million? Do you know?

Ms. WISHINSKY. I don't.

Mr. CONDIT. Do they have a calculation?

Ms. WISHINSKY. I know that the money was related to Mariel Cubans. The Mariel Cuban population was a set population that we are fully aware of. Any of those that the INS is currently—where they are detained in correctional facilities, we are aware of them and know their status. All of them were identified when they came in on the boat lift.

Mr. CONDIT. The President announced that he plans to deport up to 7,000 more criminal aliens by extending the Institutional Hearing Program. Of the 7,000 INS expects to deport, approximately how many additional individuals do you anticipate being deported from California?

Ms. WISHINSKY. I couldn't tell you that. I don't think that would be a number that we could determine right now. The number of deportable aliens is based on those who we have identified. We have certified records of conviction. If we don't have a problem getting certified records, there's getting them on the docket before the Executive Office for Immigration Review, which is another section of the Department of Justice—Immigration judges are not a part of INS—getting them on the docket, getting them their hearing, and getting them deported. You are asking me to guess out of 7,000 how many of those would be California.

Mr. CONDIT. We don't have data for a breakdown of that already.

Ms. WISHINSKY. That's an anticipated number. The President has indicated that we would deport 7,000 more criminal aliens. To ask me to come up with a number off the top of my head—

Mr. CONDIT. No, I am not asking that. I am asking INS. They are eventually going to have to have some ideas, aren't they?

Ms. WISHINSKY. As to where they would be?

Mr. HORN. On that point, the 7,000—

Ms. WISHINSKY. That's nationwide.

Mr. HORN. The California question. If the crime were committed in California and it's a Federal crime, they could well be in any Federal prison in the United States.

Ms. WISHINSKY. Sure.

Mr. HORN. We have to differentiate, of those who have committed crimes in California, how many will be deported? Of those that are incarcerated in California, be it Federal, State, or county, how many will be deported? Do you have the records of county prisoners, for example, that are illegal aliens?

As a result of the riots—everybody has this in their consciousness now—in the Los Angeles County Jail are a certain percentage of people who were involved in the riots, whether it was looting or whatever, that were labeled by the county as illegal aliens. I assume that's based on interview. The question is, did anybody ever check with INS and check with anybody else?

Ms. WISHINSKY. That's a good question.

Mr. HORN. At this point, you raise a very interesting question as to the data we have listened to from the county, to what degree is that viable.

Ms. WISHINSKY. I raised the very issue. We constantly hear statements from State officials that they have so many illegal aliens within their correctional facility. I would question what are they calling an illegal alien. Is an illegal alien a lawfully admitted permanent resident that is deportable based on their crime? I, personally, would consider that person an illegal alien. The person is deportable; therefore, they are an illegal alien, just because they came in through illegal means. Granted, they were legal at one point in time; but now, because of their crime, they are illegal.

Then the question remains, which ones of those are illegal, truly illegal? They came in illegally, possibly came in as a visitor and is now an overstaying but was an overstayer before they got convicted of a crime. That, to me, would be also be illegal. That's why I say it's not easy, when you get into all the idiosyncrasies of the immigration law, as to what population you are referring to and who is determining.

That's why I specify that in order to determine for sure, each and every one of those inmates would have to be interviewed, the ones that we suspect, each of the foreign-born, in order to determine whether that person is an illegal alien. He came in and sneaked over the border or did he come in by legal reasons but now he's deportable based on his crime?

Mr. CONDIT. Just a final question regarding the IRCA law that was passed in 1986. We haven't really dealt with these questions so that States and the Federal Government can determine these definitions. Why hasn't that been done?

Ms. WISHINSKY. In what fashion? I mean, we are working—

Mr. CONDIT. In a fashion so that the State of Florida or the State of Texas, whoever has a large number of illegal—

Ms. WISHINSKY. We are working with the States right now. I get the impression that you think we are not doing anything.

Mr. CONDIT. I am not saying that. The State of California has never been reimbursed for any of these people. You would think at least you might have a question or definition of who qualifies or

who doesn't qualify, but nobody qualifying and no reimbursement is absurd.

Ms. WISHINSKY. I can't address your issue of reimbursement.

As far as identifying those within the State system, we do work with the States, especially the five States. We work on all State levels.

For California in particular, we have systems set up, for instance, at Donovan, which is what we call a chokepoint. It's an area where all of the inmates go in at one point in time early in their sentence. They are identified and we call it a chokepoint in the sense that all of the inmates or as many of the inmates as possible go through that system at one point in their correctional career, so to speak.

That's when we have an opportunity to identify them, request certified records of conviction, and get them into an Institutional Hearing Program, which we have at Donovan.

We have a fairly new one at Calipatria. We have a brand new Federal institution for female prisoners, the first on the West Coast, in Pleasanton.

Mr. HORN. That's part of the Federal correctional facility.

Ms. WISHINSKY. That's part of the Federal correctional facility, and then we have the county.

In utilizing those mechanisms, that's how the Federal Government and the State government and the local government in reference to the county works together in order to determine.

We get lists from Department of Corrections with their foreign-born, how many have INS detainers on them and which ones don't. That indicates to us that we need to interview the ones that don't and determine whether they are aliens or not, and not if they are deportable or not. If they aren't, then we won't place a detainer on them.

We are working with the State in order to do that jointly. We are the ones who determine alienage. They know when the person comes into their system to serve their time. They notify us, and then we work with our mechanism to determine whether he's deportable or not.

Mr. CONDIT. That program as a successful program saves the Federal Government money, but what does it do for States and local facilities? Does it save them money as well?

Ms. WISHINSKY. It saves them money in the sense that if these aliens get their deportation hearing within the correctional facility and they are removed, then there's no extra cost for probation or for parole.

Mr. HORN. Nothing stops them from coming in the next day after they have been deported.

Ms. WISHINSKY. I agree. There are a lot of areas—one system, one innovation, is not going to solve the problem. It takes a series of things. It takes Border Patrol. It also takes additional investigators to process these people.

I will admit, we are overwhelmed with the numbers of criminal aliens in the correctional system, not to mention those who are on probation and parole. Most people are familiar with the statistics, that probably 75 percent of the people who are convicted of crimes

do not go into a system, do not go into a correctional system. They are on probation and parole.

Mr. CONDIT. And they are illegal aliens.

Mr. HORN. That figure you are giving is for everybody.

Ms. WISHINSKY. That is for everybody. That figure is for everybody.

Mr. HORN. Right.

Ms. WISHINSKY. We don't know how many are illegal aliens. Again, it would take ultimately interviewing each and every one of them with 1,600 agents trying to deal with all the correctional facilities, the Federal, State, and local, and not to mention we undertake proactive initiatives where we are actually identifying those who are on the street dealing in drugs, dealing in fraudulent documents, those who are employed illegally, going after the employers.

Mr. HORN. The uniform crime report, your sister agency, the FBI, do they have a category in there for illegal alien?

Ms. WISHINSKY. No, they don't.

Mr. HORN. Do they have aliens?

Ms. WISHINSKY. I don't believe so, no. They may have—

Mr. HORN. For foreign-born.

Ms. WISHINSKY. If anything, it's foreign-born. It's what the persons list on their conviction records as their place of birth. Again, Immigration—

Mr. HORN. Obviously, the way it's been interpreted, that can be very misleading in terms of what we are talking about, which is strictly illegal immigration for which the Federal Government has responsibility.

Ms. WISHINSKY. Right, deportable aliens, the illegal aliens.

Mr. CONDIT. We have a series of additional questions. We are not going to hold you any longer. We have all been here a long time today. We will submit our questions in writing. Hopefully, you can direct us if we need to go to someone else in INS to get the answers to those questions.

Ms. WISHINSKY. Sure, that's fine.

Mr. HORN. May I say, you have made an excellent presentation.

Mr. CONDIT. We appreciate it very much. We appreciate everyone taking time to be here today. I think that today's hearing demonstrates that although there are limitations in the data we have on immigration, there are significant cost impacts to State and local governments.

The Federal Government is responsible for securing our borders and for preventing illegal immigration. In my view, it has failed, and it's the cities, counties, and States that are left with the bill.

This subcommittee, with the help of committee members, are committed to continuing this process for as long as it takes to convince the Federal Government that it must assume responsibility for the costs and the failure of immigration policy. We will also continue to fight for adequate resources for the INS and to secure the administrative changes necessary for an effective and well-run operation in our State.

That concludes the hearing.

Mr. Horn, do you have any additional closing remarks?

Mr. HORN. I commend you and the staff for preparing a fine hearing. I think we have had some excellent witnesses and it's been very constructive.

Mr. CONDIT. Thank you.

We would like to thank Mr. Becerra for attending. This is not one of his responsibilities, and we appreciate it. You have added a lot to this subcommittee today, and we appreciate it so much. Do you have any closing remarks that you would like to make?

Mr. BECERRA. I would just like to echo, Mr. Chairman, what Mr. Horn said. I think the staff especially seem to have done a very good job of preparing the committee to handle this hearing today. I thank you very much.

Mr. CONDIT. Thank you for your participation. This meeting is adjourned.

[Whereupon, at 4:46 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

THE IMPACT OF FEDERAL IMMIGRATION POLICY AND INS ACTIVITIES ON COMMU- NITIES

MONDAY, MARCH 28, 1994

HOUSE OF REPRESENTATIVES,
INFORMATION, JUSTICE, TRANSPORTATION,
AND AGRICULTURE SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in Building R, room 001, Santa Fe Community College, 3300 NW 83 Street, Gainesville, FL, Hon. Gary A. Condit (chairman of the subcommittee) presiding.

Present: Representatives Gary A. Condit and Karen L. Thurman.

Also present: Shannon M. Lahey, professional staff member, and Aurora Ogg, clerk.

Mr. CONDIT. OK. We call the meeting to order.

Today, this subcommittee will focus on the impact of illegal immigration on the States, counties, and cities of Florida. This is the eighth hearing on immigration issues that this subcommittee has held since March 1993.

The purpose of these hearings and our investigation is to force the Federal Government to look at reimbursing States, counties, and cities for the costs associated with illegal immigration. Quite frankly, the Washington establishment does not want to admit that there is a cost impact to States and local governments. They do not want to take the responsibility for the consequences of Federal policies. And, in my opinion, they are wrong.

I am very pleased to be here today with Congresswoman Thurman, who is a very active member of this subcommittee and functions as the vice chairman of the subcommittee. Congresswoman Thurman and I are doing everything we can do to change the current Federal policy, to get beyond business as usual in Washington, DC. She is deeply committed to bring about changes in the way the Federal Government does business with local and State government.

The forces may be against us, but we will work, and we will not stop this effort until the Federal Government takes responsibility for its obligations. That means that if the Federal Government believes that it is important enough to pass legislation then it should be important enough to pay the costs. Cities, counties, and States should not be responsible for paying Federal bills. It is that simple. And if the Federal Government fails to enforce its laws, then it

should be responsible for the consequences, even if they are financial.

I want to turn to Mrs. Thurman now, and I just wanted to say to you folks in Gainesville she has been a very active member of this committee and has been in the forefront of this effort on illegal immigration and reimbursing States and counties for the cost. She is one of the most tenacious Members of Congress, and I am honored that we are here today, and I am honored that she is on this subcommittee. And I will turn to her for any opening statement that she would care to make.

Mrs. THURMAN. Mr. Chairman, I thank you for those kind words. Mr. Condit has taught me a few things since he has been here a few more years than I have. It is nice to have a friend that is willing to share information and guide me through the process.

With that, Mr. Chairman, I want to welcome you here to Santa Fe Community College, which I attended before going on to the University of Florida. Mr. Condit also is a Community College graduate. I think that speaks well of his education background.

I would also like to thank the panel of witnesses who have come to Gainesville today to discuss a problem that affects every Floridian, the cost of illegal immigration. I hope the administration and Congress will listen to the testimony that is to be presented this morning and study the recommendations the witnesses will make. The Federal Government must seriously address this problem and create solutions instead of passing the bill on to our State capitals and city and county governments.

First, I want to commend Governor Chiles and the Florida Advisory Council on Intergovernmental Relations for their superb work on the recent study, "The Unfair Burden." This report details in plain and shocking numbers the severe financial burden that Florida experiences by adhering to Federal immigration policy. The total annual burden to Florida taxpayers is \$884 million. Education is the most highly impacted area, followed by health care and the State's prison and criminal justice systems.

I applaud efforts by Governor Chiles to recoup money from the Federal Government to pay the cost of illegal immigration on Florida's State and local governments. I am attempting to do my part in Congress. Last year, I introduced legislation to reimburse Florida's taxpayers for the expenses associated with the Mariel boatlift and the entry of certain HIV-infected immigrants. The bill would provide more than \$151 million in reimbursement expenses.

In addition, Chairman Condit and I are offering an amendment to the anticrime bill. Our amendment requires the Federal Government to pay the States the money they spend for incarcerating criminal aliens.

In a 48-hour period of time, we were able to get about 98 signatures on a letter sent to both the chairman of the Judiciary Committee, Chairman Brooks, and to Chairman Moakley of the Rules Committee.

As a State senator for 10 years, I have firsthand knowledge of the problems that occur when the Federal Government fails to meet its financial obligations to the States. When a flood of Central American refugees settled in Florida a few years ago, we in Tallahassee had to make difficult choices in allocating scarce financial

resources to meet the additional strain on State services. In order to meet the challenge, many citizens in Florida were deprived of vital assistance. Without help from Washington, this situation is destined to become much more desperate.

America is indeed the land of promise and opportunity for many people around the world, and our country's rich history is built on the accomplishments of its immigrant heritage. However, the continuing flow of illegal immigrants threatens every citizen's future. Florida, because of its unique geographical position, has indeed shouldered an unfair burden from illegal immigration. Chairman Condit's home State, California, also greatly suffers from this dilemma. Illegal immigration is a national problem, and as a Floridian I say it is time for Washington to start providing the money that is owed to us.

Finally, I would like to thank President Tyree and the people here at Santa Fe for all their hard work in helping us put this hearing together.

And, with that, I will turn it back to Gary Condit so we can begin our testimony. Thank you for being here.

Mr. CONDIT. Thank you very much, Mrs. Thurman.

We want to make this hearing a very constructive, productive session, and we want to make you comfortable when you come up here. But the committee does have a practice of swearing witnesses in, so I didn't want that to alarm anyone. It is just a practice that we had for many years so we are going to do that.

Our first panel is Gil Kleinknecht. Associate Commissioner of Enforcement for the Immigration and Naturalization Service. And you have an associate with you.

Mr. KLEINKNECT. Yes. I will introduce her.

Mr. CONDIT. Raise your right hand.

[Witnesses sworn.]

Mr. CONDIT. We appreciate you coming here today. We appreciate INS sending you from Washington, DC, to testify before the committee. And if you would like to paraphrase your comments, read them, whatever you like to do, we are going to leave the record open for 10 days after the hearing so that anyone who wants to submit information or a statement to this committee has the right to do so.

Yes, sir.

STATEMENT OF GIL H. KLEINKNECHT, ASSOCIATE COMMISSIONER FOR ENFORCEMENT, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY SARA TAYLOR, CONGRESSIONAL LIAISON

Mr. KLEINKNECT. Thank you, Chairman Condit, Congresswoman Thurman.

Let me first introduce to you Sara Taylor, one of the senior members of the Immigration Congressional Affairs staff in headquarters. She made this trip with me to appear before the committee, and we on behalf of the Immigration Service, both of us appreciate the opportunity to appear before you today to testify about problems associated—

Mr. CONDIT. Can I have you yield just a minute?

Can people in the back row hear? Can you bring that mike closer? I kind of was afraid they couldn't. If you can't hear in the back, any time, just raise your hand, and we will move the mike closer.

Sorry to interrupt you, sir.

Mr. KLEINKNECT. Quite all right.

We appreciate the opportunity to appear before your committee and testify about the criminal alien problem here in the State of Florida, as well as nationwide.

In fact, the President's 1995 budget request to Congress included a \$55 million initiative to expeditiously remove criminal aliens from our country. With this investment, INS will expedite the deportation of criminal aliens by expanding the use of fingerprint data and the use of our computer files to rapidly and accurately respond to Federal, State, and local law enforcement officers as they are confronted with criminals and attempt to determine whether or not they are citizens or aliens.

The Institutional Hearing Program, which I will talk more about later, allows INS to assume custody and promptly remove deportable aliens when they complete their sentences. This IHP or Institutional Hearing Program will be expanded in the five States that have the largest concentration of incarcerated aliens, and this includes the State of Florida, as well as the Federal prison system. In addition, we will use teleconferencing to conduct more noncontested deportation hearings across the country, particularly in these five States.

We are gratified to know that Members of Congress share our concern over aliens who commit serious crimes within our borders. Our goal at INS is simple: to identify, to locate, and to deport aliens expeditiously, particularly those that are criminals.

Criminal aliens strain the resources of our overextended criminal justice system, whether at the Federal, State, or local level. Each year, the number of criminal aliens processed through the criminal justice system increases dramatically. Criminal alien deportations increased to over 20,000 in fiscal year 1993. This was a 50 percent increase over the same level just 2 years prior in 1991. INS is aware of the situation in Florida, as well as elsewhere across the country.

As the number of criminal aliens processed through the criminal justice system increases, there is a corresponding increase in the intensity of problems arising from that processing. There is a scarcity of resources and jail space resulting in overcrowding as well as early releases. There is a scarcity in correctional personnel as well as funds to feed and maintain those in the system.

Similarly, INS is experiencing an intensification in problems arising from our deportation processing of the increasing number of alien criminals at the State level.

My testimony today will focus primarily on INS' reactive strategies to identify alien offenders already within the criminal justice system and institute deportation proceedings for removal from the United States. This is an extremely effective and efficient use of INS resources because these aliens have already been arrested, are detained and are incarcerated, thus minimizing the expense and effort that would otherwise be required for INS to locate and detain them.

As a part of our effort to identify and process criminal aliens in State correctional institutions, INS initiated the five State criminal alien model. This project focuses INS investigative, trial attorney, detention, and deportation resources on States having the highest concentration of foreign-born inmates.

As I mentioned earlier, this includes Florida, as well as California, New York, Texas, and Illinois. As of March 1 this year, these five States had a combined total of 47,000 foreign-born inmates in their penal systems, which represents 30 percent of their combined total inmate population.

Through discussion and agreement among the INS, the Executive Office for Immigration Review, which is commonly referred to as EOIR, the State Governors, and the State attorneys general, the five State model facilitates cooperative efforts within the criminal justice agencies to improve the identification, the processing, and removal of criminal alien inmates. Continuing discussion between the Department of Justice, INS, and Florida State officials on incarcerated criminal aliens were to have been held on March 11. Because of scheduling problems, they are now being rescheduled on April 1 of this year. We are working with Governor Chiles and his staff to develop a program that ensures prompt removal of criminal aliens at the end of their sentence in accordance with the applicable laws.

The Institutional Hearing Program, the IHP, is a cooperative program with EOIR, INS, and various correctional agencies. It enables INS and EOIR to begin deportation proceedings for criminal aliens during their incarceration. The program has the potential to significantly reduce INS detention costs by ensuring immediate deportation and removal from the United States upon completion of the sentence.

The EOIR data indicates that in fiscal year 1993, 7,000 cases had completed the institutional hearing process. INS data shows that we deported 20,000 criminal aliens during that same period.

Currently, there are 6 designated IHP sites within the Federal Bureau of Prisons system, 67 among the States, and we operate 2 in county jails. Within Florida, there are seven IHP sites and correctional institutions. As you know, we have one in Apalachee, Broward, Charlotte, Martin, Sumter, Union, and Dade.

Success of the IHP is a direct result of the efforts and commitments of the Federal and State government working together. Through continuous liaison with EOIR, which is the Department's immigration judges, the State government and Florida Department of Corrections, the IHP serves the participating agencies and protects the public. Close cooperation with various probation and parole officials, as well as local, State and Federal law enforcement agencies, have proven to be very effective in identifying and taking into custody those criminal aliens amenable to deportation. I think a better word is eligible for deportation.

Operation double action, conducted in 1992 among several States, which involved INS officials, targeted criminal aliens convicted of serious crimes such as murder and rape. More than 200 were taken into custody during the operation who had already been processed through the criminal justice system and were either on parole or probation.

Due to the influx of illegal aliens into the State of Florida and the involvement of some of these aliens in criminal activities, the arrest and removal of criminal aliens is one of the two priorities of the Miami Border Patrol sector which has responsibility for the entire State of Florida. Examples of corrective enforcement measures by the Border Patrol include active, long-term involvement in a number of cooperative operations with State and local police. I am not going to identify them all, but they are in any written testimony in the record.

Border Patrol agreements exist with State and local police throughout the State. Manpower that is permitting, the Border Patrol conducts surveys of local jails to see if there are any criminal aliens booked on charges or serving sentences in local jails.

One recent effort in Dade County identified 136 criminals who are aliens who were immediately processed for removal and another 183 who became deportable upon conviction.

In conclusion, INS is committed to enforcing immigration law to deter illegal alien entry and presence. We are grateful for the strong congressional support that we have received. INS believes in a strong partnership between the Federal Government and the State and local jurisdictions.

I have served 25 years as a municipal police chief. I support that strongly on both sides of the aisle. This is particularly true when dealing with criminal aliens and the impact of these individuals have on the State and Federal correctional systems.

Again, the identification, the location, and removal of criminal aliens in the United States continues to be a priority of the INS, as reflected in our proposed 1995 budget, and is an issue that is being addressed at the local, State, and Federal levels. This administration, including INS, intends to do all that we can to meet this challenge. We seek your continuing support and thank you for your attention.

And I would be happy to answer any questions that either of you may have.

Mr. CONDIT. Thank you, Mr. Kleinknecht. Did your associate have comments?

Mr. KLEINKNECT. No, sir.

[The prepared statement of Mr. Kleinknecht follows:]

Testimony of

G. H. Kleinknecht
Associate Commissioner
Enforcement

Immigration and Naturalization Service
Department of Justice

Regarding

Criminal Aliens in the Criminal Justice System

before the

House Government Operations Committee
Subcommittee on Information, Justice,
Transportation and Agriculture

Monday, March 28, 1994

Gainesville, FL

Mr. Chairman, and distinguished members of the Committee:

I am pleased to have this opportunity to appear before you today on behalf of the Immigration and Naturalization Service (INS) to testify on the problems associated with criminal aliens. The INS regards the criminal alien problem as a major law enforcement issue.

The President's FY 1995 budget request to Congress includes a \$55 million initiative for the expeditious removal of criminal aliens. With this investment, INS will expedite the deportation of criminal aliens by expanding the use of fingerprint data to rapidly and accurately respond to Federal, state and local law enforcement officers' requests on alienage of criminal aliens. The Institutional Hearing Program (IHP), which allows INS to assume custody and promptly remove deportable aliens when they complete their sentences, will be expanded in the five states that have the largest concentration of incarcerated aliens, and in the Federal prison system. In addition, we will use teleconferencing to conduct more hearings.

Criminal Aliens

We are gratified to know that the members of this Committee share our concern over aliens who commit serious crimes within our borders. Our goal is simple: identify, locate, and deport

criminal aliens expeditiously.

Criminal aliens strain the resources of our overextended criminal justice system, whether at the Federal, state, or local level. Each year the number of criminal aliens processed through the criminal justice system increases dramatically. Criminal alien deportations increased to 20,056 in FY 1993, nearly a 52 percent increase over the level of FY 1991. The INS is aware of the situation in Florida, as well as elsewhere across the Nation. As the number of criminal aliens processed through the criminal justice system increases, there is a corresponding increase in the intensity of problems arising from that processing: a scarcity of resources such as jail space (resulting in inmate overcrowding and early releases), trained correctional facility personnel, and funds for inmate maintenance. In a similar vein, the INS is experiencing an intensification of problems arising from our processing of increasing numbers of alien criminals for deportation. We face limited detention and removal funds and manpower to initiate and successfully conclude deportation cases, as well as some difficulty with certain countries in obtaining passports or other travel documents for aliens ordered deported. However, the INS has developed a solid strategy to stem the increasing numbers of criminal aliens and thereby alleviate both limitations.

The goals of the INS Criminal Alien Strategy are:

- (1) To systematically identify, locate, and initiate removal proceedings against criminal aliens, whether or not incarcerated;
- (2) To ensure expeditious removal of convicted criminals, consistent with statutory and regulatory requirements; and
- (3) To create an effective deterrent against aliens seeking entry into the United States to engage in crime.

In order to accomplish these goals, the INS implemented the Alien Criminal Apprehension Program (ACAP) in 1986. ACAP is both proactive and reactive -- the program pursues the systematic detection and arrest of criminal aliens within the United States, both before and after incarceration.

The INS's proactive operations involve close cooperation between the INS and other law enforcement and criminal justice agencies. Our operations target areas of mutual concern -- alien narcotic traffickers, convicted aggravated felons, recidivists, and alien criminals representing risks to public safety.

My testimony today, however, focuses more on INS's reactive strategies, i.e., identifying alien offenders already within the

criminal justice system to institute deportation proceedings for their removal from the United States. This is an extremely effective and efficient use of INS resources because these aliens have already been arrested and detained or incarcerated, thus minimizing the expense and effort which would otherwise be required for the INS to locate and detain them. Through various initiatives which I will describe, the INS is able to utilize its resources optimally.

Section 507, IMMACT 90

Section 507 of the Immigration Act of 1990 requires states to ensure, as a condition for receipt of Federal drug control and system improvement grants, establishment of plans to provide to the INS, without fee, notice of conviction of aliens who have violated the criminal laws of the state. Additionally, it requires the states to provide the INS with certified records of conviction within 30 days of the date of a request by the INS. This provision of the Act supports the INS in identifying aliens early in the process, and in obtaining the certified records necessary to place a criminal alien in expedited deportation proceedings.

The INS and the Bureau of Justice Assistance (BJA) have been working closely with the states to implement this section of law. To date, over 80 percent of the states are in full compliance.

Five State Criminal Alien Model

As part of the effort to identify and process criminal aliens in state correctional systems, the INS initiated a Five State Criminal Alien Model. This project focuses limited INS investigative, trial attorney, and detention and deportation resources on states having the highest concentration of foreign-born inmates. The five states originally designated for the project are Florida, California, New York, Texas, and Illinois. As of March 1, they have a combined total of approximately 46,907 foreign-born inmates in their penal systems, which is 13% of their combined total inmate population. Through discussion and agreement among the INS, the Executive Office for Immigration Review (EOIR), State Governors, and State Attorneys General, the Five State Model facilitates cooperative efforts with criminal justice agencies to improve the identification, processing and removal of criminal alien inmates. Discussions between Department of Justice and INS officials and Florida State officials on incarcerated criminal aliens were to have been held on March 11. They are being rescheduled for April 1. We will be working with Governor Chiles and his staff to develop a program that ensures prompt removal of criminal aliens at the end of their sentences, in accordance with applicable law.

Institutional Hearing Program

The INS has established centralized locations (chokepoints) at particular Federal, state, and local correctional facilities for rapid identification of incarcerated criminal aliens. Over the last several years, local, state and Federal authorities have worked together to commence deportation proceedings for criminal aliens incarcerated for crimes committed in the United States. This is called the Institutional Hearing Program (IHP). The foreign-born population in both Federal and state institutions is significant, and for the program to work effectively, all of these cases need to be screened by an INS officer. There are currently more than 22,326 (approximately 25% of the total) foreign-born inmates in Bureau of Prisons institutions and more than 50,000 (more than 6% of the total) in state institutions.

The IHP is a cooperative program of the EOIR, the INS, and various correctional agencies. It enables the INS and the EOIR to begin deportation proceedings for criminal aliens during their incarceration. The program has the potential to significantly reduce INS detention costs by ensuring immediate deportation and removal from the United States upon completion of sentence. The EOIR data indicate that in FY 1993, approximately 6,917 cases were completed in the IHP. The INS data show that 20,056 criminal aliens were deported nationwide in FY 1993. (This number includes criminal aliens processed through the IHP, as well as other

criminal aliens whose deportation hearings were held after they completed their prison sentences.)

Currently, there are six designated IHP sites within the Federal Bureau of Prisons system; 67 sites within the state systems; and two county jail sites -- the Los Angeles County Jail in California and the Marion County Jail in Salem, Oregon.

Within Florida, there are seven IHP sites: (1) Apalachee Correctional Institution (CI), in Sneads; (2) Broward Correctional Facility (Females), in Pembroke Pines; (3) Charlotte CI, in Punta Gorda; (4) Martin CI, in Indiantown; (5) Sumter CI, in Bushnell; (6) Union CI, in Raiford; and (7) Dade CI, in Florida City.

The success of the IHP program is the direct result of the efforts and commitment of Federal and State government working together. Through continuous liaison with the EOIR, the State government, and the Florida Department of Corrections, the IHP serves the participating agencies and protects the public.

Advances in technology are also being explored to minimize the travel time required to conduct hearings in remote institutions. Video technology has been developed for testing at the IHP in the Lexington, Kentucky Federal Correctional Institution. The Immigration Judge and the INS trial attorneys will be physically located in Chicago while the alien and the alien's attorney will be

in Lexington. This will help alleviate the need for the Immigration Judge and the INS attorney to travel to a remote hearing site.

The INS and EOIR are working together on additional measures to improve the program. For example, on July 21, 1993, a regulation was published which streamlines the mechanism for the admissibility of documentary evidence in the Immigration Court. The regulation expands the types of documents that will be accepted by an Immigration Judge to establish a criminal conviction, and permits the use of electronically transferred conviction records, transmitted from the states to INS.

Centralization of Criminal Aliens

Notwithstanding the success of the IHP, the INS continues to receive into its custody criminal aliens who have not yet received their deportation hearings. To ensure efficient use of its limited resources, INS detains these criminal aliens for expulsion proceedings in several central facilities established for this purpose.

Adjacent to the Federal Correctional Institution in Oakdale, Louisiana is a Federal Detention Center (FDC) operated by the Bureau of Prisons. The INS moves aliens who have completed sentences in state and local facilities from locations throughout

the country to the Oakdale FDC for their immigration hearings. INS's San Pedro Service Processing Center is used as a similar central site for criminal aliens on the West Coast.

INS has also been working with the Bureau of Prisons on a 1,000-bed contract facility in the southwestern United States. Construction of the facility in Eloy, Arizona, is near completion and is scheduled to open this summer. The facility's 500 beds for INS detainees will be occupied by criminal aliens who have completed their state and local sentences, and BOP's beds are expected to be occupied by aliens convicted of Federal crimes.

Border Patrol

Due to the continued influx of illegal aliens into the State of Florida and, the resultant involvement by certain of those illegal aliens in criminal activity, the arrest and removal of criminal and criminally involved aliens is one of the two main priorities of the Miami Border Patrol Sector.

Efforts in this regard are both proactive and reactive. Examples of proactive enforcement measures include our active, long-term involvement in organized cooperative efforts with such groups and "Operation Greenbacks" and "C-4" (Caribbean Counter Crime Consortium), Miami Street Crimes Unit, Jamaican Organized Crime Task Force and a commitment to the new South Florida

Intelligence Support Group (SFISG). Additionally, close, cooperative agreements exist with all state and local enforcement agencies in our area of operations as well as the State Attorney's Office and State Probation Office. Manpower permitting, jails are surveyed on a periodic basis to locate criminal aliens booked on charges or serving criminal sentences. One recent effort in the Dade County system located 136 criminal aliens who were immediately processed for removal and 183 aliens who became deportable upon conviction.

Reactive efforts are mainly those made in response to requests for assistance from Federal, state and local agencies who have arrested persons believed to be aliens for criminal offenses.

National Crime Information Center

The INS and the Federal Bureau of Investigation reached an agreement on INS use of the National Crime Information Center (NCIC) in June of 1991. In December of 1991, the INS began entering into the NCIC wanted person file the names of criminal aliens who were under a final order of deportation and who had absconded. The INS is notified by the arresting agency whenever one of these aliens is encountered by law enforcement officers in the course of their normal duties. The first apprehension was made by local police only four days after the program was implemented.

As of March 23 of this year, the INS had entered the names of 2,664 wanted aliens into NCIC. By that date, there had been 344 hits. Of the 344 hits, the INS has effected 199 deportations. The remaining cases are pending judicial review or criminal proceedings initiated by the apprehending enforcement entity. Many of the apprehensions resulted from traffic stops or other relatively minor offenses. It is quite probable, therefore, that without the NCIC hit confirmation capability, many of the 199 criminal aliens subsequently deported would not have come to the attention of the INS and would not have been deported, but rather would have been released back into the community.

In March 1992, the INS Forensic Document Laboratory produced and distributed a poster listing INS's ten most wanted criminal aliens. Six of the original ten most wanted aliens were apprehended within one year, and the INS produced and distributed a second poster in March 1993. The United States Marshals Service (USMS) has agreed to pursue the INS's ten most wanted aliens in a cooperative effort to locate serious offenders. These aliens have been ordered deported based upon criminal convictions and can be immediately removed from the United States upon apprehension. Three of the aliens listed on the new wanted poster have already been apprehended.

The use of the NCIC has helped the INS to remove criminal aliens in a timely and cost effective manner. The cooperation of

local, state, and federal agencies has been exemplary.

National Criminal Alien Tracking Center

The concept for the National Criminal Alien Tracking Center (NCATC) was developed by the INS in response to a Congressional mandate (amendment to Section 242 of the Immigration and Nationality Act). The NCATC's goal is to respond on a 24-hour basis to inquiries from more than 24,000 Federal, state, and local criminal justice agencies concerning aliens arrested for aggravated felonies.

The NCATC will be the central point of contact for Federal, state, and local criminal justice agencies querying the immigration status of a suspected alien arrested for committing an aggravated felony. The center will respond to inquiries and convey arrest data to appropriate INS personnel. A six-month pilot project for initial testing of the center's capabilities is expected to begin June 1, 1994. During the field test phase, access to the NCATC shall be limited to law enforcement agencies within the State of Arizona.

Proactive Criminal Alien Activities

Close coordination with various probation and parole officials, as well as local, state and Federal law enforcement

agencies has proven to be very effective in identifying and taking into custody those criminal aliens amenable to deportation.

"Operation Double Action," conducted in December 1992 is an example of the results that such cooperation can yield. The operation, involving INS agents in Florida, California, Arizona, Texas, and Louisiana, targeted criminal aliens convicted of serious crimes such as murder, rape, and drug offenses. More than 200 aliens taken into INS custody during the operation had been processed through the criminal justice system and were either on probation or parole. Another criminal alien initiative, focusing on alien fugitives and aggravated felons, is being planned for mid-1994.

Each year the number of convicted criminal aliens processed through the criminal justice system increases. The INS continues to rely on criminal prosecutions for reentry after deportation to deter the reentry of criminal aliens into the United States. Since May 1991, the Los Angeles District Office has successfully presented 186 criminal aliens for federal prosecution, resulting in 158 convictions and terms of confinement averaging 40.7 months. The INS believes that the enforcement of this criminal provision of law provides a deterrent to reentry.

These innovations and commitments by the states, local law enforcement agencies and the INS working together have greatly

aided in the identification, processing, transportation, and expeditious removal of criminal aliens from the United States. These projects assist in meeting the demands that the criminal alien population places upon the INS, the state, and society.

Reimbursement to States for Certain Incarceration Costs

To address the issue of funding for states for criminal aliens incarcerated within the state penal system, Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365(b)) authorized the Attorney General to reimburse states for the costs of imprisonment of illegal aliens or Mariel Cubans, who have been convicted of felonies "subject to the amounts provided in advance in appropriation Acts."

INS does not have appropriated resources under this section of law to reimburse states for the costs of imprisonment of illegal aliens convicted of felonies. The Department of Justice Office of Justice Programs has received an annual appropriation of approximately \$5 million to reimburse states for the imprisonment of Mariel Cuban felons. In 1993, the State of Florida received \$671,902 in Federal reimbursement funds for costs associated with Mariel Cubans incarcerated in Florida State correctional facilities.

Conclusion

The INS is committed to enforcing immigration law to deter illegal alien entry and presence. We are grateful for the strong congressional support which we have received. .

The INS believes that a strong partnership between the Federal government, the states, and local jurisdictions is essential for effective immigration law enforcement. This is particularly true when dealing with criminal aliens and the impact these individuals have on state and Federal correctional systems. Again, the identification, location, and removal of criminal aliens from the United States continues to be a priority of the INS and is an issue that is being addressed at the local, state, and Federal levels.

Effective immigration enforcement also requires a balance of interior and border enforcement to address such concerns as aliens working illegally in the United States; the use of fraudulent documents; sophisticated attempts at illegal entry; and the manipulation of the asylum process to obtain employment authorization. Border enforcement is very important to deter illegal entry, but it alone cannot solve the Nation's immigration problems. Employer sanctions remain a vital and essential provision of our immigration law and national policy. Equally important is the INS program to combat immigration fraud, so often linked to other forms of illegal activity engaged in by aliens.

This Administration, including the INS, intends to do all we can to meet these challenges. We seek your continuing support for our efforts.

I thank you for your attention. I would be happy to answer any questions you may have.

Mr. CONDIT. In 1986, Congress authorized the immigration emergency fund. The purpose of this fund was to provide funding sources for mass immigration emergencies. This allows for the Attorney General to access \$20 million for the purpose of reimbursing States and local governments who experience a major immigration influx and meet certain criteria.

It is 1994, and the regulations to implement this fund has not been finalized. Do you know what the status of this regulation is?

Mr. KLEINKNECT. Mr. Chairman, I do not know the status of the regulation. I do know that INS will fulfill its part of any regulation or any authorization that Congress does pass. Currently, it is my understanding we are not administering any fund to reimburse the States, at least through the Immigration Service.

Mr. CONDIT. Do you have a date when they are going to implement the regulations?

Mr. KLEINKNECT. No, sir, not the enforcement team that I represent. I will be happy to have the staff find out or myself and report back to you.

Mr. CONDIT. Could you provide us that information so that we could include it in the record, if you have a date for us?

Mr. KLEINKNECT. I will provide one as soon as possible and get back to your staff with that date.

Mr. CONDIT. Thank you.

[The information follows:]

Immigration Emergency Fund

Question: In 1986, Congress authorized the Immigration Emergency Fund. . . . Do you know what the status of this regulation is?

Answer: A final regulation, entitled "Emergency Federal Law Enforcement Assistance: Immigration Emergency Fund", was published in the Federal Register on June 14, 1994. (attached)

EXAMINATIONS FEE ACCOUNT—Continued
[Revised Fees]

Form No.	Form name/description	Fee
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal	£5
I-360	Petition for Amerasian, Widow(er), or Special Immigrant (except for a petition seeking classification as an Amerasian in which case the fee is waived).	80
I-485	Application to Register Permanent Residence or Adjust Status: If 14 years of age or older	130
	If under 14 years of age	100
I-526	Immigrant Petition by Alien Entrepreneur	155
I-539	Application to Extend/Change Nonimmigrant Status	75 plus 10 per coapplicant.
I-600	Petition to Classify Orphan as an Immediate Relative	155
I-600A	Application for Advance Processing of Orphan Petition	155
I-601	Application for Waiver of Grounds of Excludability	95
I-612	Application for Waiver of the Foreign Residence Requirement	95
I-751	Petition to Remove the Condition on Residence	80
I-765	Application for Employment Authorization	70
I-817	Application for Voluntary Departure Under Family Unity Program	80
N-300	Application to File Declaration of Intention	75
N-400	Application for Naturalization	95
N-470	Application to Preserve Residence for Naturalization Purposes	115
N-565	Application for Replacement Naturalization/Citizenship Document	65
N-600	Application for Certificate of Citizenship	100
N-643	Application for Certificate of Citizenship in Behalf of an Adopted Child	80
N-644	Application for Posthumous Citizenship	80

¹ Petition with Unnamed Beneficiaries:

—Fee of \$75 per petition.

Petition with Named Beneficiaries:

—Base fee of \$75 per petition plus either:

—\$10 per worker if requesting consulate or port-of-entry notification for visa issuance or admission;

—\$80 per worker if requesting a change of status; or

—\$50 per worker if requesting an extension of stay. If filing an extension of stay or change of status for one worker, dependents may be included for a fee of \$10 per dependent.

[FR Doc. 94-14441 Filed 6-13-94; 8:45 am]
 BILLING CODE 4410-01-M

Office of the Attorney General

28 CFR Part 65

[INS No. 1449-92; AG Order No. 1892-94]

RIN 1115-AD40

Emergency Federal Law Enforcement Assistance: Immigration Emergency Fund

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule implements provisions in the Immigration and Nationality Act that establish an "Immigration Emergency Fund" and that provide for assistance to States and local governments for services provided at the request of the Attorney General, to meet an immigration emergency declared by the President, to aid in the administration of the immigration laws of the United States, or to meet urgent demands arising from the presence of aliens in a State or local jurisdiction. This rule sets forth procedures governing requests for a Presidential declaration of an immigration emergency; requests from the Attorney

General for state or local government assistance when the President has declared an immigration emergency and in certain other circumstances; and applications from States and local governments for assistance from the Immigration Emergency Fund.

EFFECTIVE DATE: June 14, 1994.

FOR FURTHER INFORMATION CONTACT: Michael J. Coster, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW, room 6100, Washington, DC 20536, telephone (202) 514-2895.

SUPPLEMENTAL INFORMATION: The Department of Justice ("Department") promulgated a proposed rule on January 14, 1992, 57 FR 1439, which set forth procedures and requirements for reimbursement from the Immigration Emergency Fund to States and localities for assistance provided in the absence of a Presidential determination that an immigration emergency exists under paragraph (b)(2) of section 404 of the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101, note (b)(2). After receiving several comments, the rule was expanded and amended significantly, and the Department promulgated another proposed rule on November 5, 1993, 58 FR 58994. The proposed rule set forth procedures and

requirements for reimbursement from the Immigration Emergency Fund to States and local governments under all the provisions of section 404(b) of the INA as required by section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992. Public Law 102-140, 105 Stat. 782, 832. The Supplementary Information section of the publication at 58 FR 58994 contains an exhaustive history of the legislation.

The second proposed rule originally required written comments to be submitted by December 6, 1993. On January 5, 1994, at 59 FR 558, the Department extended the comment period to January 26, 1994, and three sets of comments were received. Two were from government entities while the third was from a public policy group. The Department received and evaluated the comments as follows:

Comment: The definition of "assistance" for which the fund could be used to reimburse State and local governments should be expanded to include direct and indirect costs, such as overhead and administrative costs, associated with providing services and resources to aliens, including those illegal aliens incarcerated in jails and prisons for violation of State criminal

laws. Additionally, assistance should also include providing for basic medical, cash, and social service needs in the short run, and housing, education, and human service needs in the longer rule. This type of social service assistance should not be tied to the establishment of large shelter facilities.

Response: These changes have not been adopted. The Immigration Emergency Fund provides only limited resources which must be allocated in a judicious fashion. The Department believes that the use of the funds should be limited to assistance provided to the Attorney General in the enforcement and administration of the immigration laws of the United States. This view is supported by the statutory language, which provides for reimbursement for "assistance as required by the Attorney General" 8 U.S.C. 1101, note (b)(2)(A) (emphasis added). The Attorney General's mission does not include providing social services or providing costs of incarcerating persons for violating State criminal laws. Thus, only in limited circumstances do these types of services assist the Attorney General.

Comment: It should be made clear that any denial of funds is without prejudice, and that there may be an opportunity for the States or local governments to renew their request.

Response: This change is unnecessary and has not been adopted. The regulation contains no language which would limit the ability of a State or local government to renew an application.

Comment: For the purpose of determining the increase in the number of asylum applications in an Immigration and Naturalization Service ("INS") district for a given quarter, the number of Cuban nationals who remain in the INS district after the expiration of their visitors visas should be included as *de facto* asylum applicants, whether or not the Cuban nationals have formally applied for asylum.

Response: This change has not been adopted. The suggested method for calculating the number of asylum applications filed in a certain quarter is inconsistent with the plain language of the statute and other portions of the INA. However, the Attorney General may consider the concerns raised by the comment regarding Cubans who remain without filing asylum applications as "other circumstances" justifying access to the fund.

Comment: The definition of "other circumstances" is weak, thus making it difficult to understand what this may cover. This definition should be reconsidered and elaborated upon by

the Department before final regulations are published.

Response: This change has not been adopted. The statutory language indicates that Congress intended to give the Attorney General broad discretion in determining which "other circumstances" would justify access to the fund. The regulation should not unnecessarily limit that discretion.

Comment: The regulation concerning application requirements should be more specific. The application process should be triggered by a phone call by the chief executive of the impacted jurisdiction to the Attorney General declaring his or her intention to apply to access the fund. This call would immediately be followed by a facsimile correspondence reiterating the chief executive's intent to apply. Within twenty-four hours of the call and facsimile, the Attorney General and the chief executive or their designees would meet to facilitate the negotiation of the application. The written application would need to be submitted within five calendar days of this meeting and would include: (a) A cover letter from the chief executive; (b) a written narrative of the emergency conditions and listing the state point of contact; (c) a listing of the broad service categories required by the aliens; (d) a description of the services; (e) the number or estimated number of aliens to be served; (f) the cost or estimated cost to be incurred; and (g) time parameters for service provision with a proviso that access to the funds could be extended without formal reapplication in the case of exigent circumstances.

Response: The specific procedures recommended would be a sound and welcome way for a State or local government to present its request for funding, but the regulation has not been amended to require adherence to those specific procedures. The flexible application process prescribed in the regulation is sufficiently specific without being unduly burdensome in the information requirements or overly confining in the formal requirements of the application. The rule has been amended to allow the Attorney General to use the grant or cooperative agreement process to provide funding, in addition to negotiating a separate reimbursement agreement. Accordingly, State and local governments may also use standard grant applications. The informal communication recommended by the commentator is already included in the regulation at § 65.85(b), and is strongly encouraged.

Comment: The regulation is currently promulgated under 28 CFR part 65, which is entitled "Emergency Federal

Law Enforcement Assistance." The regulation should be retitled to reflect the overall intent of the statute and the contents of the regulation more accurately.

Response: This change has not been adopted. The regulation remains codified under 28 CFR part 65. However, subpart I is entitled "Immigration Emergency Fund," and the Department will consider redesignating the regulation in the future.

Procedural Matters

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is promulgated in accordance with the principles set forth in Executive Order 12866, and the Department considers the rule a "significant regulatory action" within the meaning of section 3(f) of E.O. 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget ("OMB").

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The information collection requirements contained in this rule have been cleared by OMB under the provisions of the Paperwork Reduction Act. The OMB clearance number is 1115-0184.

List of Subjects in 28 CFR Part 65

Grant programs—law, Law enforcement, Reporting and recordkeeping requirements.

Accordingly, part 65 of chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 is revised to read as follows:

Authority: The Comprehensive Crime Control Act of 1984, Title II, Chap. VI, Div. I, Subdiv. B, Emergency Federal Law Enforcement Assistance, Pub. L. 98-473, 98 Stat. 1837, Oct. 12, 1984 (42 U.S.C. 10501 et seq.); 8 U.S.C. 1101 note; Sec. 610, Pub. L. 102-140, 105 Stat. 832.

2. Part 65 is amended by adding a new subpart I to read as follows:

Subpart I—Immigration Emergency Fund

- 65.80 General.
 65.81 General definitions.
 65.82 Procedure for requesting a Presidential determination of an immigration emergency.
 65.83 Assistance required by the Attorney General.
 65.84 Procedures for the Attorney General seeking State or local assistance.
 65.85 Procedures for State or local governments applying for reimbursement.

Subpart I—Immigration Emergency Fund**§ 65.80 General.**

The regulations of this subpart set forth procedures for implementing section 404(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 note, by providing for Presidential determinations of the existence of an immigration emergency, and for payments from the Immigration Emergency Fund to State and local governments for assistance provided in meeting an immigration emergency. The regulations of this subpart also establish procedures by which the Attorney General may draw upon the Immigration Emergency Fund, without a Presidential determination that an immigration emergency exists, to provide funding to State and local governments for assistance provided as required by the Attorney General in certain specified circumstances.

§ 65.81 General definitions.

As used in this part:

Assistance means any actions taken by a State or local government directly relating to aiding the Attorney General in the administration of the immigration laws of the United States and in meeting urgent demands arising from the presence of aliens in the State or local government's jurisdiction, when such actions are taken to assist in meeting an immigration emergency or under any of the circumstances specified in section 404(b)(2)(A) of the INA. Assistance may include, but need not be limited to, the provision of large shelter facilities for the housing and screening of aliens, and, in connection with these activities, the provision of such basic necessities as food, water clothing, and health care.

Immigration emergency means an actual or imminent influx of aliens which either is of such magnitude or exhibits such other characteristics that effective administration of the immigration laws of the United States is beyond the existing capabilities of the Immigration and Naturalization Service ("INS") in the affected area or areas. Characteristics of an influx of aliens,

other than magnitude, which may be considered in determining whether an immigration emergency exists include: the likelihood of continued growth in the magnitude of the influx; an apparent connection between the influx and increases in criminal activity; the actual or imminent imposition of unusual and overwhelming demands on law enforcement agencies; and other similar characteristics.

Other circumstances means a situation that, as determined by the Attorney General, requires the resources of a State or local government to ensure the proper administration of the immigration laws of the United States or to meet urgent demands arising from the presence of aliens in a State or local government's jurisdiction.

§ 65.82 Procedure for requesting a Presidential determination of an immigration emergency.

(a) The President may make a determination concerning the existence of an immigration emergency after review of a request from either the Attorney General of the United States or the chief executive of a State or local government. Such a request shall include a description of the facts believed to constitute an immigration emergency and the types of assistance needed to meet that emergency. Except when a request is made by the Attorney General, the requestor shall file the original application with the Office of the President and shall file copies of the application with the Attorney General and with the Commissioner of INS.

(b) If the President determines that an immigration emergency exists, the President shall certify that fact to the Judiciary Committees of the House of Representatives and of the Senate.

§ 65.83 Assistance required by the Attorney General.

The Attorney General may request assistance from a State or local government in the administration of the immigration laws of the United States, or in meeting urgent demands where the need for assistance arises because of the presence of aliens in that State or local jurisdiction, and may provide funding to a State or local government relating to such assistance from the Immigration Emergency Fund, without a Presidential determination of an immigration emergency, in any of the following circumstances:

(a) An INS district director certifies to the Commissioner of INS, who shall, in turn, certify to the Attorney General, that the number of asylum applications filed in that INS district during the relevant calendar quarter exceeds by at

least 1,000 the number of such applications filed in that district during the preceding calendar quarter. For purposes of this paragraph, providing parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district.

(b) The Attorney General determines that there exist circumstances involving the administration of the immigration laws of the United States that endanger the lives, property, safety, or welfare of the residents of a State or locality.

(c) The Attorney General determines that there exist any other circumstances, as defined in § 65.81 of this subpart, such that it is appropriate to seek assistance from a State or local government in administering the immigration laws of the United States or in meeting urgent demands arising from the presence of aliens in a State or local jurisdiction.

§ 65.84 Procedures for the Attorney General seeking State or local assistance.

(a) When the Attorney General determines to seek assistance from a State or local government under § 65.83 of this subpart or when the President has determined that an immigration emergency exists, the Attorney General shall negotiate the terms and conditions of that assistance with the State or local government, and shall set forth those terms and conditions. Funding related to such assistance can be provided by a reimbursement agreement, grant, or cooperative agreement.

(b) A reimbursement agreement shall contain the procedures under which the State or local government is to obtain reimbursement for its assistance. A reimbursement agreement shall include the title of the official to whom claims are to be submitted, the intervals at which claims are to be submitted, a description of the supporting documentation to be submitted, and any limitations on the total amount of reimbursement that will be provided. Grants and cooperative agreements shall be made and administered in accordance with the uniform procedures in Part 66 of this title.

(c) In exigent circumstances, the Attorney General may agree to provide funding to a State or local government without a written agreement. A reimbursement agreement, grant, or cooperative agreement conforming to the specifications in this section shall be reduced to writing as soon as practicable.

§ 65.85 Procedures for State or local governments applying for funding.

(a) In the event that the chief executive of a State or local government

determines that any of the circumstances set forth in § 65.83 of this subpart exists, he or she may pursue the procedures in this section to submit to the Attorney General an application for a reimbursement agreement, grant, or cooperative agreement as described in § 65.84 of this subpart.

(b) The Department strongly encourages chief executives of States and local governments, if possible, to consult informally with the Attorney General and the Commissioner of INS prior to submitting a formal application. This informal consultation is intended to facilitate discussion of the nature of the assistance to be provided by the State or local government, the requirements of the Attorney General, if any, for such assistance, the costs associated with such assistance, and the Department's preliminary views on the appropriateness of the proposed funding.

(c) The chief executive of a State or local government shall submit an application in writing to the Attorney General, and shall file a copy with the Commissioner of INS. The application shall set forth in detail the following information:

(1) The name of the jurisdiction requesting reimbursement;

(2) All facts supporting the application;

(3) The nature of the assistance which the State or local government has provided or will provide, as required by the Attorney General, for which funding is requested;

(4) The dollar amount of the funding sought;

(5) A justification for the amount of funding being sought;

(6) The expected duration of the conditions requiring State or local assistance;

(7) Information about whether funding is sought for past costs or for future costs;

(8) The name, address, and telephone number of a contact person from the requesting jurisdiction.

(d) If the Attorney General determines that the assistance for which funding is sought under paragraph (c) of this section is appropriate under the standards of this subpart, the Attorney General may enter into a reimbursement or cooperative agreement or may make a grant in the same manner as if the assistance had been requested by the Attorney General as described under § 65.84 of this subpart.

(e) The Attorney General will consider all applications from State or local governments until the Attorney

General has expended the maximum amount authorized in section 404(b)(2)(B) of the INA. The Attorney General will make a decision with respect to any application submitted under this section, and containing the information described in paragraph (c) of this section, within 15 calendar days of receipt of such application.

(f) In exigent circumstances, the Attorney General may waive the requirements of this section concerning the form, contents, and order of consideration of applications, including the requirement in paragraph (c) of this section that applications be submitted in writing.

Dated: June 8, 1994.

Janet Reno,
Attorney General.

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BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 94-007]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between January 1, 1994 and March 31, 1994, which were not published in the *Federal Register*. This quarterly notice lists temporary local regulations, security zones, and safety zones, which were of limited duration and for which timely publication in the *Federal Register* was not possible.

DATES: This notice lists temporary Coast Guard regulations that become effective and were terminated between January 1, 1994 and March 31, 1994, as well as several regulations which were not included in the previous quarterly list.

ADDRESSES: The complete text of these temporary regulations may be examined at, and is available on request, from Executive Secretary, Marine Safety Council (G-LRA), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander, Thomas R. Cahill, Executive Secretary, Marine Safety Council at (202) 267-1477

between the hours of 8 a.m. and 3 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Special local regulations are issued to assure the safety of participants and spectators at regattas and other marine events. Timely publication of these regulations in the *Federal Register* is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. However, the affected public is informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation.

Because mariners are notified by Coast Guard officials on-scene prior to enforcement action, *Federal Register* notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the *Federal Register* notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the *Federal Register*. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. These safety zones, special local regulations and security zones have been exempted from review under E.O. 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period January 1, 1994 and March 31, 1994, unless otherwise indicated.

Thomas R. Cahill,

Lieutenant Commander, Executive Secretary, Marine Safety Council.

Mr. CONDIT. I know you are probably tired of this question, but does INS ever plan to fully comply with the statutory requirement made in 1990 to provide a report of the number of illegal aliens incarcerated in Federal, State, and local facilities?

Mr. KLEINKNECT. Congressman, we have already provided that report and sent it on to Congress.

Mr. CONDIT. No, I think the report that you did only included Federal and State facilities, and only foreign born. There was a definition problem. Are you aware of this?

Mr. KLEINKNECT. No, sir.

Mr. CONDIT. The request of the report was to give us illegal aliens incarcerated in Federal, State, and local prisons. And we got a count on foreign born, which is not necessarily the same.

Mr. KLEINKNECT. I understand your question, Congressman. It wasn't a definition problem. It was that the INS does not have the capability of telling Congress or the American people without conducting one-on-one interviews with foreign-born inmates. So our report listed the number of foreign-born inmates. It would require an individual interview of each foreign-born inmate to determine their alienage and whether or not they have a right to stay in the United States, whether they are here illegally, whether they have over-extended their work permit or their visa.

Mr. CONDIT. Well, which brings up a point. The State of Florida and the State of California, probably the State of Texas, probably the State of Arizona, maybe other States, come up with their own numbers, and they are pretty close to the situation. Are their numbers good enough for us to honor?

Mr. KLEINKNECT. Well, we have corresponded with Mr. Singletary. He is here today. Even in his report to us, he would agree—I would agree with him—it is difficult to determine among the foreign-born inmates which ones are here illegally, which ones are legal permanent residents and are amenable or eligible for deportation.

So the issue of illegal aliens is broken down into a number of subcategories. The numbers that we get from the States as to the foreign born, we accept those. Each State has a different breakdown. For example, of the foreign-born inmates reported to us from the State of New York, it was our best judgment, and they agreed, that 90 percent of them are amenable for deportation.

Different States vary depending on the nationalities that reside in that State.

Mr. CONDIT. In your opinion, if we are ever to get to reimbursement of States and counties and cities, are we going to have to do something to have uniform reporting with INS? How are we going to deal with that? Just accept the State's numbers? It seems to me if you have got someone incarcerated in a facility and they have been through legal proceedings, it has strange that you don't know whether they are a legal or illegal resident.

Mr. KLEINKNECHT. Well, there are so many different categories of illegal aliens, as well as aliens who are legally here, even in the State of Florida.

Mr. CONDIT. Well, if you are an alien and you are here legally you are not illegal.

Mr. KLEINKNECT. Are you still amenable for deportation?

Mr. CONDIT. You are amenable but you get a hearing. You have a hearing by INS. But if you are a felon and you are illegal, you are illegal. You have no hearing. You are going to be incarcerated by either Federal or State corrections.

All I am saying is, if you have gone through the court process, either way it seems to me very easy to ask a few questions or do a little research and find out what the status of this person is.

Mr. KLEINKNECT. I would recommend to Congress that when you consider that legislation that you define very clearly what you mean by illegal alien as well as what you mean by legal permanent resident and all the other categories of those aliens.

Mr. CONDIT. What is your policy on that? What is the INS policy right now?

Mr. KLEINKNECT. The policy on what?

Mr. CONDIT. Yes, you are here from a foreign country. You are here illegally. So what is your definition?

Mr. KLEINKNECT. The common definition of illegal alien is anyone who is not here legally.

Mr. CONDIT. That is pretty simple. But you seem to think that there is some problem with the definition. So tell me how you define it right now.

Mr. KLEINKNECT. Unfortunately, for many of these aliens who come here from foreign countries, they do not know what their category is and what rights they have under the immigration law. And it requires a trained immigration officer to conduct that interview to determine whether or not they have rights as residents of the United States.

For example, a very good example is along the southern border. A national from Mexico may have been born in El Paso, taken back to Mexico by his family, and 20 years later come into the United States as an undocumented alien. Only through interview by an immigration agent is it determined that the person was originally born in the United States and has a U.S. birth certificate and they would not be amenable for immediate deportation as an illegal alien. And that pertains to Mexican nationals, Nicaraguans, citizens from Haiti, Cuba.

And so my recommendation and caution to you is, when you define that term, that you very closely and specifically define what information you want from the States and what information you want the States to provide to the Immigration Service or the Department of Justice.

Mr. CONDIT. That is good advice, but you don't have the definition that you go by right now?

Mr. KLEINKNECT. We do, but, Congressman, they are very lengthy, and I would be happy to provide them to you in writing, what we mean by different terms. And it would take a good part of this hearing to go through the various categories of aliens, those that may think they are here illegally but are here legally because they have rights under one or more laws passed by Congress. And we have those who think they are here legally but are here illegally because they overstayed their student visa or overstayed their permission to visit south Florida.

Mr. CONDIT. What action has the INS taken to help local and State governments receive reimbursement for incarceration of

criminal aliens? Has the INS ever submitted a budget to the Justice Department for reimbursement?

Mr. KLEINKNECT. INS is familiar with the budgets that deal with reimbursing the States for Cubans. You are familiar with that. We have no appropriated funding to reimburse the States for non-Cubans who are here, as you defined, as illegal aliens.

Mr. CONDIT. As I defined or as the law defined?

Mr. KLEINKNECT. As the law defines.

[The information follows:]

On April 22, 1994, the Administration announced that it was requesting a FY 1995 budget amendment to establish a \$350 million State Criminal Alien Assistance Program within the Department of Justice to help States pay for the costs of incarcerating illegal aliens convicted of a felony. The program would provide funding for States with a significant criminal alien population. It is authorized by section 501 of the Immigration Reform and Control Act of 1986.

Mr. CONDIT. Thank you.

Well, the Immigration Act, section 510, gives you authorization to do that. Why have you not done that?

Mr. KLEINKNECT. It is my understanding, Mr. Chairman, Congress passed the authorization but did not pass the funding.

Mr. CONDIT. But you still could make the request. Have you not made the request?

Mr. KLEINKNECT. The request before Congress comes from the Department of Justice. I am a member of the Immigration Service, and I will defer on that.

Mr. CONDIT. I understand that. Clearly, I understand that. And let me tell you that I clearly understand, from my point of view, INS does not get the attention it deserves from the Justice Department. We absolutely have gone through that, and you folks need more assistance and more help and more attention. And everything that I am doing today is to be constructive and helpful to you.

But you still have the responsibility at INS—as I understand it, if section 508 is the way I understand it, you can make the request. Therefore, Justice can deny the request, ignore the request, Congress can then ignore it, but you have the authority to make the request. I am wondering why you don't do that.

Mr. KLEINKNECT. I would probably refer back to my previous response in that the Department of Justice makes requests through the administration, through OMB, to the Congress concerning funding. And I would refer that comment or question to the appropriate person in OMB.

Mr. CONDIT. Would you do that for us? That would be most helpful, what the thought process is, not to take advantage of making that request.

Mr. KLEINKNECT. If you ask me what we have done to implement that, we are about to begin the National Criminal Alien Tracking Center on June 1 with a pilot in Arizona. For the first time, INS will have its automated records available to State and local police. Should an alien come to the attention of a local police officer through an arrest for an aggravated felony, that local police officer, through a nationwide computer system, can contact INS headquarters, and we will be able to tell the arresting officer within a few minutes the alienage of the person they have under arrest.

We are doing that pilot in the State of Arizona starting on June 1, and we plan to, if it is successful, extend it to all 50 States, including the State of Florida.

And you may say, well, why is that of interest? Its of interest at INS, one, is for the first time, we will have an opportunity to track criminal aliens from the time of arrest and charging for a deportable crime all the way through the system, rather than after they have been incarcerated.

Second, it would help the arresting officers to know what the immigration category is and what the background is of a person that comes to their attention that they believe may be an alien.

And this computer service center will be available 24 hours a day, 7 days a week. So it will be the first time in the history of the Immigration Service that we will have immediate contact with all arresting police officers throughout the United States, 7 days a week, 24 hours a day, concerning alienage of individuals that come to their attention for aggravated crimes.

Mr. CONDIT. Well, how do they define them?

Mr. KLEINKNECT. Pardon?

Mr. CONDIT. How do they define them? Since you are setting up this computer program, you challenge my definition. How do you define? What is going to be your definition of an illegal alien in your computer program?

Mr. KLEINKNECT. The most common definition used by the State correctional systems as well as the Bureau of Prisons is the person was foreign born. And in most booking procedures, the arresting officer, or the booking officer, asks the detainee where they were born. If it is a country other than the United States, through the NLETS computer system, INS will be able to tell this arresting officer whether this person—we can't tell him they are illegal, because the illegal persons are not necessarily in our system. They are here illegally. They have not applied for benefits. They have not applied for naturalization. They are not protected under one statute or another. So to tell the officer that they are here illegally, we probably can't do that. But we can tell them if they are here and they have overextended their right to be here. We can tell them their alienage. We can tell them their prior record with the Immigration Service as well as what their status is among our various computer files.

Mr. CONDIT. But you can only do that if they file for some papers or service, right?

Mr. KLEINKNECT. There are a number of categories of benefits that they can apply for that we keep records of, ranging from naturalization, to work permit. If they are in our system, we will be able to tell the arresting officer immediately what their status is.

Your question is whether illegal—we would be able to go back and say that we have no record of this person.

Mr. CONDIT. Well—you guys sort of interchange when it is convenient. They do this in Congress, too, about illegal aliens, whether it is foreign born or this or that. You know, I think people sort of switch on the definitions depending on where are they at on that particular issue.

You were saying that we ought to define it. Apparently, you have defined it because you are setting up a computer program for a

State, a trial program. So I don't know why your definition can't be used. Although I am a little bit concerned about just using the definition foreign born, because, absolutely, a lot of people foreign born here become legal citizens.

Mr. KLEINKNECT. I say, Congressman, that the States and the Bureau of Prisons use the definition foreign born. There is not uniformity among the States as to what they mean by foreign born. There is not uniformity among the States what they mean by illegal alien.

For example, in the Brady bill, it mentions illegal alien. INS does not have records on illegal aliens. They don't report in to us when they come across the border between the ports-of-entry without documentation.

Mr. CONDIT. Is it possible that INS could help us develop a definition so that when there is legislation or there is an effort to reimburse States that there is uniformity?

Mr. KLEINKNECT. INS would be more than pleased to lend our expertise to your staff and committee on developing a list of definitions of various terms that the States could report on.

Mr. CONDIT. We may make a formal request to ask you to do that so we can just get on the same page of what the definitions are.

I have just one additional question. I didn't mean to go on because Mrs. Thurman has got some, I am sure, penetrating questions she would like to ask you as well. I kind of went off on a tangent. I apologize for that.

I am curious about this one thing. When we determine as best we can that we have an illegal alien who has committed a felon and they are incarcerated for some years, when they have served their time, tell us and the audience what happens to them after they serve their time.

They are not here on any kind of permit. They have no papers. But they are illegal aliens. What happens? Do we release them back on the streets or what do we do with them?

Mr. KLEINKNECT. As I mentioned in my testimony, INS has currently under way the IHP, the Institutional Hearing Program. Under that program, and our 1995 funding request would provide full implementation in the five States which have 80 percent of the foreign born or criminal aliens, the procedure would operate like this.

An alien convicted of a deportable offense—and Congress has passed a long list of them—is sentenced to 5 to 20 for armed robbery, for example. Under the Institutional Hearing Program, as soon as that alien arrives at the State correctional facility, at the intake, INS will conduct an interview to determine alienage. That is the difficult part. Once alienage is determined and deportability is determined, INS, through the immigration judges, will begin the deportation hearings.

Mr. CONDIT. Can I just interrupt? I understand. So even if you are not here on a permit, you came across the border, transport across the border, no paper, no request for permit, you still have a deportation hearing once you serve your time. Are they entitled to that?

Mr. KLEINKNECT. If you—unless you waive your right to a deportation. Every person has a right to a hearing before being deported unless you waive that right.

Mr. CONDIT. So what about people who just come over and get caught at the border, and they send them back over. They don't get a hearing.

Mr. KLEINKNECT. Let me finish the deportation hearing process, and I will get back to that, and maybe I can clear that up for you.

During the several years that the alien is serving his sentence in the State correctional institution, all the deportation hearings and the appeals would take place. Sometimes that process takes over a year to go through the various hearings and the appeals to higher courts.

Within 1 year or within the time period that the alien serves in the correctional institution of the State, the hearing process would be completed. The deportation request would be granted. INS would take the alien to the embassy to satisfy the embassy of the foreign country that this is one of their nationals. They would give us an order to send him back to their home country. INS would buy the airplane ticket, and on the last day the INS would appear at the correctional institution, pick up the alien, because all the processing has been done, and drive him to the airport and put him on a plane and fly him back to their home country.

That is the institutional hearing process. That is the way it should work in all 50 States. Because of resource problems, intake problems, we are not in a position to do that today.

To your question about the—

Mr. CONDIT. OK, go ahead, I am sorry.

Mr. KLEINKNECT. Your question about the illegal alien. Every person entering the United States who has civil or criminal action taken against them once they are here has a right to a full and fair hearing before a criminal judge or a civil judge. In the case of the Immigration Service, if you violate immigration law, before an immigration judge.

And unless you waive that right, even though they came across the border illegally and said I am not going back voluntarily because if I do I will be persecuted by the government or by the military or for some reason they do not want to return. We are required by immigration law or regulation to give them a full hearing.

Mr. CONDIT. So, as I understand it then, if you come here, transport over here through California, one of the borders or what have you, and you commit a crime, get incarcerated, you have the same rights then as someone who filed the documentation and has papers to be here legally. Even though they are foreign born, you have the same hearing—and they get charged with a crime and put in jail, you have the same hearing process?

Mr. KLEINKNECT. I don't want to oversimplify, but they have a right to a full hearing before they can be involuntarily returned to their country. Congress has listed certain crimes that, even though you are a legal permanent resident, if you commit one of these crimes you can also be deported.

So INS through the IHP is interviewing legal permanent residents who have a right to be here. Because they committed a de-

portable crime, as I said in my testimony, now they are eligible for deportation because of the type of crime.

Mr. CONDIT. I understand that. Where I am confused—and I think that I have talked to a lot of local law enforcement people in the States. I don't get the same answer. That the people that are incarcerated and don't have documentation, that they still are entitled to a hearing process. But we will clear that up.

I just want to go back again to you to say that this is the way it should be, but that is not the way it is happening. So what is happening? Didn't you say that? The way it should be, they should get a hearing.

Mr. KLEINKNECT. I think what you are referring to, Congressman, is that the way it should be, that all the hearings should take place while the alien is serving his sentence in a State facility.

Unfortunately, because of many problems, particularly resource problems, INS is unable to complete that process in time. So the States in some locations, including Florida, are confronted with releasing the alien into the population before INS can complete the deportation and to get travel documents and the airplane ticket in order. Then it becomes harder to locate him because they assimilate into the community.

Mr. CONDIT. Thank you very much. And I appreciate your tolerance with me on this issue. Thank you very much.

I am going to turn to my colleague, Mrs. Thurman.

Mrs. THURMAN. They would also be under some type of probation at that particular time. How are we following through with that if, in fact, the deportation issue is—

Mr. KLEINKNECT. Because they completed their sentence in the State prison, it does not necessarily mean they are out on parole or probation. They may have completed their full sentence and not been eligible for parole. Most of them are out on parole or probation.

INS's goal through the IHP program is to complete the processing so they can be deported at the end of their sentence rather than to be released into the community under parole or probation. Once we complete the Institutional Hearing Program, for example in the State of Florida, then we will look at those who are being paroled out early or out on probation at the time of sentencing—those do not end up in the State correctional institutions.

Mrs. THURMAN. Mr. Kleinknecht, the Florida congressional delegation sent a letter to OMB Director Leon Panetta regarding Florida's concerns about the fiscal impact of illegal immigration on the State. In his response, Director Panetta stated that the crime bill, health care reform and welfare reform, quote, represent an opportunity to discuss potential solutions. Mr. Kleinknecht, do you know of any specific programs the administration has planned to offer in these various bills at this time?

Mr. KLEINKNECHT. I covered what I think is the biggest one, which is the Institutional Hearing Program which is in the President's 1995 budget.

Mrs. THURMAN. That is the \$55 million?

Mr. KLEINKNECT. The \$55 million project will provide full funding and full staffing to expand the IHP in the five States which have 80 percent of the population we are concerned with and to be

able to complete the deportation process, hopefully, 99 percent of those cases, before the alien is released at the end of his sentence.

Mrs. THURMAN. How soon do you think this will be in operation?

Mr. KLEINKNECT. The Commissioner of Immigration, Doris Meissner, has requested that the enforcement staff that we will have in place, the five plans, including the State of New York, before October 1. So, on October 1, we will be ready to implement the full Institutional Hearing Program in those five States.

Mrs. THURMAN. Mr. Kleinknecht, can you further detail INS' record on securing our borders from further alien entry? What methods have proven most successful and what are the areas that you believe need improvement?

Mr. KLEINKNECT. On securing Florida's borders from the entry of illegal aliens? Well, the first subquestion you have is what is the most effective method.

For the State of Florida, the U.S. Coast Guard is the most effective method of deterring illegal aliens from entering the United States by sea.

The other method of entering the United States is through an airport, by airplane. INS, through its inspections program, is attacking that in two areas. The most effective measure—and it is proving successful in a number of foreign airports—is to do preinspection at the foreign airport to prevent the alien who does not have proper documentation or no documentation from getting on a carrier and coming to the United States. That is the most effective measure.

Where that fails, INS has inspectors at all the international airports, and before the alien enters the United States they must produce proper documentation demonstrating that they have a right to be here. And INS interviews every alien, every person coming in the United States by air.

So there are two ways to enter Florida: One is by air, and one is by sea. And you have no land border with a foreign country.

Mrs. THURMAN. What are the areas in the last part of that question that need improvement? How can we help improve this process?

Mr. KLEINKNECT. For the two of you to help the President pass his 1995 initiative. Because, in that initiative there is another package that addresses the counterfeiting of our documentation, which is a serious problem for the Immigration Service because we have professional counterfeiters who can take our work authorization documents and our travel documents and reproduce them.

In the 1995 package the President has a proposal to address the counterfeiters of fraudulent immigration documents, as well as the distributors and to encourage employers in some cases not to accept them as work authorization.

Mrs. THURMAN. Mr. Kleinknecht, I appreciate your being here today. For the committee, can you mention some of the ideas that need improvement? I think that is important for us to have that kind of information.

And I would welcome, along with the chairman, conversations on how we can build a relationship with the States and our local governments in making this an easier job for all of us. Hopefully, as we go through this hearing today—and I hope that you all will be

able to stay for a while to listen to the State and local people. There may be some solutions that come before us that work with us on a day-to-day basis. We appreciate you being here.

Mr. KLEINKNECT. Having spent 25 years in municipal government, I understand your concerns. And I appreciate and I am working on both sides at the same time. Thanks for the opportunity to be here.

Mr. CONDIT. If I may—I don't want to let you go that easy. Just for the record, I have a couple questions. And I will try to make mine brief, and maybe you can make your answers brief.

You mentioned in your testimony that INS has experienced difficulty with certain countries in obtaining passports or other travel documents for aliens deported. Can you tell us which countries you are talking about?

Mr. KLEINKNECT. Congressman, we have had difficulty with a couple of countries in recent years. But in the last few months those countries that have given us difficulty have seemed to come around, and I would—our best judgment today to tell you at this very moment, we are getting good cooperation from all the countries we have to deal with, some better than others. But at this moment in time we do not have a country that is causing us difficulty to the point where you should intercede or the State Department should intercede.

Mr. CONDIT. So I am incorrect in reading your testimony that you expressed some difficulty with some countries?

Mr. KLEINKNECHT. We have had difficulty with some countries from time to time, but at this point in time I think I could be safe in saying that our relationship has improved, and I have no reason to believe—

Mr. CONDIT. Are you looking for a diplomatic job?

Mr. KLEINKNECT. Am I? No, I have never had a diplomatic job.

Mr. CONDIT. Well, I would like for the record to submit a letter from President Clinton in response to this issue. I wrote him a letter, and he has responded, and I would like to have it included in the record. And anyone cares to get a copy of it, we will make that available.

[The information follows:]

Gary A. Condit, California, Chairman
 Mary O'Dowd, New York
 Karen Thurman, Florida
 Lynn Woolsey, California
 Bill Supak, Michigan

Craig Thomas, Wyoming
 Ranking Minority Member
 Debra Ros-Lehtinen, Florida
 Stephen Horn, California

ONE HUNDRED THIRD CONGRESS
Congress of the United States
House of Representatives
 Information, Justice, Transportation, and Agriculture
 Subcommittee
 of the
 Committee on Government Operations
 B-349-C Rayburn House Office Building
 Washington, DC 20515

VOICE (202) 225-3741
 FAX (202) 225-2445

February 22, 1994

President William J. Clinton
 The White House
 Washington, D.C.

Dear Mr. President:

I am writing to express my deep concern over the current policy of the Immigration and Naturalization Service (INS) of deporting criminal aliens at our nation's borders.

As you know, most individuals attempting to illegally cross the southern border have previously been apprehended. Criminal aliens have a much higher rate of re-entry attempts. Although I strongly support deterring illegal entry at the border by increasing resources at and between ports of entry, this is not enough. The current practice of dropping criminal aliens at the border is jeopardizing the immediate safety of American citizens. This policy makes as much sense as taking criminal aliens directly to the streets of Los Angeles after they have served their sentences.

The INS conducted a pilot program on interior repatriation of criminal aliens in California during 1992. I urge you to review the results of this program and work very closely with the Government of Mexico to improve the success rate and economic viability of interior repatriation. I also urge you to develop a full scale and comprehensive plan to put into action immediately.

Critics of interior repatriation have argued that it is not cost effective and provides only an inconvenience to criminals. I would like to respectfully request all documentation regarding repatriation to be provided to my Subcommittee. I would also like to request all available information on discussions that have taken place between U.S. officials and the Government of Mexico in this area.

Thank you in advance for your cooperation and consideration.

Sincerely,

Gary A. Condit
 Chairman

THE WHITE HOUSE

WASHINGTON

March 2, 1994

Dear Gary:

Thank you for your letter regarding reimbursements for the costs of serving undocumented immigrants. I appreciate hearing your views on important issues facing California. My 1995 budget addresses many of your concerns.

Incarcerating Deportable Aliens. The 1995 budget does not propose reimbursements to states for incarceration costs associated with aliens who have committed state and local crimes. However, my 1995 budget proposes an additional \$55 million to increase the Immigration and Naturalization Service's (INS) ability to identify criminal aliens and to expand the Justice Department's expedited criminal alien hearing and deportation program. This investment would enable INS to deport up to 20,000 more criminal aliens annually, once the program is fully operational. Many of these deportable criminal aliens are currently serving sentences in state and local correctional facilities. Since many in the prison system are repeat offenders or career criminals, quicker identification and deportation of convicted illegal aliens should result in reduced financial burdens to the states.

Furthermore, my Administration intends to do more to minimize the problems imposed on state and local governments by illegal immigration. I believe the most responsive federal action against these problems should be to increase our ability to secure the border and curb illegal immigration. My 1995 budget includes a comprehensive plan to fund critical illegal immigration control programs. The budget proposes a total of \$368 million in additional funding for the INS and other Justice components which support INS' activities. For INS alone, this represents a 22 percent funding increase over its 1994 level. Our plan is aggressive and will produce results, once fully operational. It will:

- * increase border controls through personnel and technology enhancements;
- * expedite the deportation of criminal aliens;

- * expedite the adjudication of asylum applications and the deportation of those whose requests are denied;
- * implement employer sanctions and anti-discrimination laws more effectively; and
- * promote naturalization benefits for eligible immigrants.

Educating Undocumented Immigrant Children. Title I of the Elementary and Secondary Education Act is the primary source of federal support for education of disadvantaged children, a source which provides far more funding to your state than categorical immigrant education program. All disadvantaged children, including immigrants, may receive services through Title I. In the "Improving American Schools Act of 1993," my Administration has asked Congress to focus Title I on helping disadvantaged children achieve the same challenging education standards expected of all children. My 1995 budget requests \$7 billion for this program, an increase of 10 percent over 1994. The proposed funding would increase the concentration of this money in school districts with the greatest need. Your state would receive a substantial increase in funds under the proposal: For FY 1994, California is expected to receive \$677 million. With the formula change and funding level proposed, California would receive about \$771 million in 1995.

The existing Immigrant Education program allocates funds to states according to a formula based on enrollment of immigrant children, regardless of their residency status. Under current law, California receives more than 40 percent of these funds. For 1995, the "Improving American Schools Act of 1993" would replace this program with a discretionary grant program that would provide more intensive support to school districts most in need. The per-pupil funding in districts receiving the new grants may be as much as ten times that received through the existing formula. The total funding requested for the program in 1995 is the same as that appropriated in 1994 for the formula grant (\$39 million).

Providing Emergency Medical Services. My 1995 budget includes coverage, through Medicaid, of emergency medical services for undocumented immigrants who would otherwise be eligible for Medicaid. The federal portion of these expenses is estimated to total roughly \$500 million in 1995. The Health Security Act proposes to continue covering emergency medical services for undocumented immigrants. The 1995 budget also includes \$663 million to help support community and migrant

health centers, which often end up furnishing emergency medical services and primary care services to undocumented immigrants living in medically undeserved communities.

As you may know, OMB Director Leon Panetta, Attorney General Janet Reno, and HHS Secretary Donna Shalala met on January 31 with the governors from California and other immigrant-affected states to begin the dialogue on the issue of federal assistance. I believe that the Administration, Congress, and state governments must work together to respond to the fiscal pressures put on state and local budgets by illegal immigration. The on-going debate about the crime bill, health care reform and welfare reform represents an opportunity to discuss potential solutions.

Thank you again for your letter. I hope that you will support the Administration's 1995 budget initiatives to curb illegal immigration more effectively. I look forward to working with you on these critical issues in the upcoming legislative session.

Sincerely,

Brian Cleary

The Honorable Gary A. Condit
House of Representatives
Washington, D.C. 20515

Mr. CONDIT. Why aren't Florida and California fully integrated into the five State criminal alien program and what is the status of the other three States?

Mr. KLEINKNECT. I missed the first part of your question, Congressman.

Mr. CONDIT. Why aren't Florida and California fully integrated into the five State criminal alien program?

Mr. KLEINKNECT. If the 1995 initiative is passed, California and Florida as well as Texas, New York, and Illinois will be fully implemented into the IHP. California now is fully implemented into the Institutional Hearing Program for uncontested cases. About half the aliens deported from California are uncontested Mexican nationals. The other half are contested.

In Florida the INS staff as well as the Department of Corrections under Mr. Singletary's supervision, we have had excellent results. We have made progress in negotiating and reviewing an agreement between the INS and the State of Florida to expedite the IHP by working with the Governor to permit the Governor to release criminal aliens at the end of their deportation hearing and to help relieve the need for bed space in Florida.

Mr. CONDIT. Is there some reason why this program didn't start with Florida and California, which, apparently, actually have the biggest problems?

Mr. KLEINKNECT. Congressman, we actually started with all five States. We are currently writing an IHP plan for Florida and for California. Because of timing, we have already completed the one for New York. That is waiting for full funding in 1995. But by October 1, when the new budget year goes into effect, all five plans will be adopted by the Immigration Service, staffed in the five States, and will be in agreement and ready to go on October 1.

Mr. CONDIT. OK. You completed New York. What about the other two States?

Mr. KLEINKNECHT. We are currently writing the State of Florida, writing the State of California. We will be writing, in the next couple of months, Illinois and Texas.

Mr. CONDIT. In your prepared testimony, you stated that INS is planning a criminal alien initiative for mid-1994 regarding alien fugitives and aggravated felons. Can you be more specific on what you mean?

Mr. KLEINKNECT. Is that my testimony about the Criminal Alien Tracking Center in the State of Arizona as a pilot?

Mr. CONDIT. It is the planning of a criminal alien initiative. This is the initiative you are talking about for mid-1994, regarding alien fugitives and aggravated felons.

Mr. KLEINKNECT. I think I can explain it in two parts. The first part is the initiation of the National Criminal Alien Tracking Center. That has been funded—

Mr. CONDIT. OK. We got that. What is the other?

Mr. KLEINKNECT. The second part is to locate fugitives wanted by the Immigration Service. And what we are doing there is to use the National Crime Information Center, which is a computer-based file operated by the Federal Bureau of Investigations, available to all 50 States and all local police departments.

We have placed into the NCIC, the National Crime Information Center, all criminal aliens who are wanted by the Immigration Service for a deportable offense or who have entered the United States illegally and a warrant is on file for entering illegally. Several thousand of those names have been entered into NCIC. And, as of today, about 350 of those aliens have been apprehended by local police officers, and this has been within the last year and a half, and most of those have already been deported back to their home country.

Those are the two initiatives I think you are talking about in the testimony.

Mr. CONDIT. OK. I do—that does conclude my questions.

Once again, Mrs. Thurman and I both thank you very much for being here, and our questioning is meant to be constructive and help you find solutions.

We both can see, as this subcommittee can see, the INS is sort of—no disrespect to you—but treated like a stepchild there at the Justice Department. We think you deserve more attention. We think it is a problem the Federal Government has sort of put aside. We need to focus on. So we want to be part of the solution, not part of the problem.

We appreciate you being here. If you are able to stay for a while, listen to some of the local comments, we would appreciate that very much. If you have to leave and catch a plane, we clearly understand that.

Mr. KLEINKNECT. Mr. Chairman, I will be happy and pleased. I am interested to hear Mr. Singletary's testimony as well as discuss with him later about what we are doing in Florida, what we need to do.

But I need to say, in closing that INS is pleased today with the support we are getting from the Department of Justice. The Attorney General, Ms. Reno, we were the first agency in the Department that she visited. She is in contact with us on a daily basis. If you know her, she wants things done. And we are pleased with the support.

Mr. CONDIT. We both know her, and you probably are going to get a diplomatic job. You are quite diplomatic.

Thank you, sir, very much. We appreciate it.

Mrs. THURMAN. I want to introduce this letter for the record.

On February 4, we received some information from the Florida Advisory Council of Intergovernmental Relations which presented some specific questions and recommendations. Later on today we are going to hear from somebody who serves on this commission, but I want to put this in the record because it does actually identify key issues and gives suggestions that we might be looking at. I would hope that Mr. Kleinknecht would make sure that the appropriate people get a chance to look it over.

For the record, we did receive a response from Mr. Thomas.

Mr. CONDIT. Without objection, that will be included in the record.

[The information follows:]

KAREN L. THURMAN
5TH DISTRICT FLORIDA
TOLL FREE
1-800-833-4352



WASHINGTON OFFICE
130 CANNON BUILDING
WASHINGTON D.C. 20515
202/225 1002

COMMITTEES
AGRICULTURE
GOVERNMENT OPERATIONS

Congress of the United States

House of Representatives

Washington, DC 20515

February 4, 1994

Mr. Ralph Thomas
Office of Congressional Affairs
INS
425 Eye Street N.W.
Washington, DC 20536

Dear Mr. Thomas:

I am enclosing a copy of correspondence that I have received from the Florida Advisory Council on Intergovernmental Relations (ACIR) concerning problems with identifying costs associated with new arrivals in Florida.

I direct your attention to recommendations 10-13, which discuss cooperation and data exchange between the IRS and state agencies. Any assistance that you can provide that addresses these requests or statutory language that prevents INS's providing this data would be appreciated.

I look forward to your prompt response.

Sincerely,

COPY

Karen L. Thurman
Member of Congress

KLT\bd
enc.

HOME OFFICES

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Inverness, FL 34453
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The Florida Legislature
**FLORIDA ADVISORY COUNCIL
ON INTERGOVERNMENTAL RELATIONS**

House Office Building, Tallahassee, FL 32399-1300 Ph (904)488-9627 Suncom 278-9627 Fax 487-6587

January 12, 1994

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U.S. Representative Karen Thurman
130 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Thurman:

On May 20, 1993, The Florida Advisory Council on Intergovernmental Relations (ACIR) initiated an interim study to identify costs incurred by state and local entities for services provided to the various immigrant, refugee, and entrant populations (Newcomers), including undocumented aliens who reside in Florida. In addition, the study identified the amount of federal grants and reimbursements that the state and local entities received for providing such services to Newcomers. This study of Florida's Newcomers was undertaken in conjunction with the Intergovernmental Affairs Policy Unit within the Office of the Governor.

During the course of the study, it became evident that only a fraction of the costs incurred by state and local entities for services provided to Newcomers could be documented, and that federal funding has insufficiently compensated these state and local entities. Moreover, a review of federal immigration policy and federal immigration and refugee program funding patterns signal that Florida can anticipate even greater numbers of Newcomers at a time when federal support for Newcomer programs continues to erode and disappear.

On November 29, 1993 the Council approved a set of 14 recommendations that, if enacted by the Florida Legislature or pursued by you, should advance our understanding of some of the problems associated with insufficient federal funding of Newcomer programs. A copy of the relevant recommendations is attached for your review. Recommendations 3-9 identify activities the state can undertake to improve reporting and documenting of services accessed by Newcomers and associated costs.

EX-OFFICIO MEMBERSHIP

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Florida League of Cities - Raymond Siting School Board Association of Florida - Dr. Wayne Blanton
Florida Association of Special Districts - Peter L. Pimentel*

Representative Thurman
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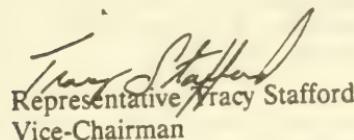
Recommendations 10-13 identify activities that require Congressional action that would improve the state's ability to more accurately calculate the number of Florida's Newcomers and their fiscal impact on state and local entities.

We would appreciate your review of these possible federal actions and advising us accordingly.

Sincerely,



Senator Fred R. Dudley
Chairman


Tracy Stafford
Representative Tracy Stafford
Vice-Chairman

Enclosure

Recommendations approved by ACIR, 11-29-93

Recommendation 1: Includes items to be completed and included in final report.

Recommendation 2: Publish research report jointly with the Intergovernmental Affairs Policy Unit within the Office of the Governor.

Recommendation 3: In order to address the tasks identified in the following list, the Florida Legislature should designate an entity as the state clearinghouse on all Newcomer issues. This entity should exist as a Joint Commission or Commission with members appointed by the Leadership of the Legislature and by the Governor or this could be done as part of the existing Florida Estimating Consensus Conferences or a new conference assigned responsibilities pursuant to s. 216.136, F.S. If a Commission or a Joint Commission is established, the Governor's appointments must include local elected officials from municipal and county governments from a list of nominees provided by the Florida Association of Counties and the Florida League of Cities. Consistent with responsibilities assigned in s. 14.23, F.S., the Florida State-Federal Relations Office, within the Executive Office of the Governor, shall coordinate activities with the designated entity including the collection and dissemination of relevant information and assist in monitoring of proposed federal legislation that would impact funding levels of current Newcomer programs. If a single entity is so created, it should report to the Florida Legislature, Governor, and Cabinet. Responsibilities of this entity should include the following seven duties. Those responsibilities appropriate for consensus estimating conferences include number 2, 3, 5, and 6.

- 1) identify and maintain population figures for Florida Newcomers as provided by INS records and publications and from any other identified sources;
- 2) develop and maintain an inventory of all federal programs available to Newcomers, grant amounts for those programs, any state and local match requirements, the amount of state and local discretion afforded by each program, and the amount of program funding provided to governmental and nongovernmental entities;
- 3) develop and maintain an inventory of all governmental services accessed by Newcomers that are reported to state agencies. (At a minimum, information shall be collected from the Florida Departments of Corrections, Education, Health and Rehabilitative Services, Highway Safety and Motor Vehicles, and Law Enforcement);
- 4) monitor proposed federal legislation that would impact funding levels of current Newcomer programs and advise the Leadership in the House and Senate, the Governor, and Cabinet of proposed recommendations;
- 5) identify federal data banks on Newcomers and propose methods for accessing that information in order to verify immigration status of individuals who utilize state and local services and programs, and

6) evaluate the impact of undocumented immigrants on Florida's health care system with attention to this population's inclusion and exclusion from the proposed federal governments health care policy and the health care program coverage that is extended by the State of Florida.

7) serve as the State of Florida's liaison in Newcomer issues to all federal agencies and to Florida's Washington delegation.

Rationale: Currently, the Office of Refugee Program Administration within the Department of Health and Rehabilitative Service collects information on refugee programs that are administered by the Department. Information on programs serving other types of Newcomers, or that are administered by other agencies are not necessarily forwarded to the Refugee Administration Office. Information regarding Newcomers that is collected by other state agencies is not reported to any single entity. In addition, with the exception of federally funded or partially funded programs, Florida does not verify the immigration status of individuals who access state and local services. Although the federal government maintains an extensive list of Newcomers by name and identification number, it is unknown whether, and the extent to which, states may access that information to verify immigration status of state and local service consumers. Such information would assist in the calculation of the costs incurred by state and local agencies from services accessed by Newcomers and in assessing the contributions of Newcomers to the state government and local communities.

The creation of a Commission with authority to employ fulltime staff emphasizes the Council's belief that: 1) the functions performed by the designated entity is a priority to the State of Florida, and 2) that a concerted effort by trained staff is required to adequately address the assigned duties. The functions currently performed by the Florida Consensus Estimating Conferences are consistent with the need to calculate similar estimates for costs incurred by Newcomer populations by state and local entities and the estimate of contributions by Newcomers to the state and to local communities where Newcomers reside. It is anticipated that additional resources must be available in order for these new responsibilities to be adequately addressed. The anticipated role performed by the Florida State-Federal Relations Office represents a continuation of their existing responsibilities and acknowledges the advantage of utilizing a single established office to gather and disseminate information between the federal government and the designated entity.

Recommendation 4: The Florida Departments of Law Enforcement and Corrections shall submit monthly reports regarding the arrest, local detention, or state incarceration of Newcomers to the designate entity.

Rationale: Although this information is routinely collected by these state agencies, it is not always readily accessible. The development and forwarding of such monthly reports would necessitate better record management on the part of the Departments, reinforce the importance of maintaining accurate records, and provide current information on the impact of Newcomers to law enforcement and detention facilities.

Recommendation 5: The Department of Education shall maintain records on the amount of federal funding it receives for Newcomer programs, the distribution of funds among eligible school districts, and the amount of state general revenue and that is distributed to each school district as a result of Newcomer student FTE for basic education and for all other special education programs. The Department shall identify any additional funding and sources of funding special education programs in which Newcomer students are enrolled. The Department shall provide the designated entity with a report on these expenditures on a routine basis.

Rationale: Current Department recordkeeping procedures do not allow for identification of Student enrollment in specialized educational programs. In addition, the mix of federal state and local funding for basic and special educational programs in which Newcomer students are enrolled is unclear.

Recommendation 6: The Florida Department of Corrections, in conjunction with the Department of Law Enforcement, shall develop written plans for the coordination with the U.S. Justice Department and Immigration Naturalization Services in regards to notification of incarceration of aliens and for the use of state correctional facilities for holding deportation hearings of criminal aliens.

Rationale: Currently, Florida Department of Corrections notifies INS whenever an individual is sentenced to a state correctional facility who is identified or suspected of being an alien. This process has evolved into an informal arrangement between Department staff and the INS. In addition, the U.S. Department of Justice conducts deportation hearings in 7 of Florida's correctional facilities without benefit of any written agreement, based on information provided by the Office of the Secretary of the Department of Corrections. Any agreed upon relationship between state agencies and the U.S. Justice Department that entails the interviewing and possible deportation of aliens should be documented and approved in written form. Currently, the Florida Department of Law Enforcement is responsible for maintaining the Florida Criminal Justice Information System. The Department of Law Enforcement should ensure that the system contain all appropriate information to assist in the early identification of criminal aliens and to record findings and final disposition subsequent to the deportation hearing for each criminal alien.

Recommendation 7: The legislature should authorize the Department of Corrections to release custody of criminal aliens who are incarcerated in Florida Correctional Facilities to the U.S. Justice Department for the purpose of deportation of the criminal alien.

Rationale: Currently, Florida Statutes do not permit the Department of Corrections to release criminal aliens incarcerated in Florida prisons to the U.S. Justice Department for the purposes of deportation any earlier than they would ordinarily be released. Such early releases would save the state the costs of incarceration of these individuals and provide space for additional offenders.

Recommendation 8: The Florida Department of Law Enforcement should identify the information on the citizenship status as a mandatory element of the Offender Based Transaction System (OBTS).

Rationale: Currently, the data element in the OBTS that identifies the citizenship status of individuals is identified as a voluntary data field. Listing the citizenship status of the individual in the OBTS is left up to the discretion of individual local agencies. Requiring that this information be provided for each individual included in the OBTS will assist in the development of an impact assessment from Newcomers on state and local criminal justice systems.

Recommendation 9: The legislature should require, with adequate funding for both capital outlay and operations, that all appropriate state and local agencies participate in the OBTS and maintain accuracy of information contained in the system on a timely basis. The Department of Law Enforcement shall provide an annual report that includes the names of local agencies that are not complying with the requirements of the OBTS and other information as required to the entity designated in recommendation 1.

Rationale: Based on information provided by the Department of Law Enforcement, only 60 of 67 counties currently participate in some aspect of OBTS. Requiring that each local agency participate in the OBTS will assist in the development of an impact assessment on state and local criminal justice systems from Newcomers.

Recommendations affecting state-federal relations regarding Newcomer issues.

Recommendation 10: The Legislature should request that agreements between Florida and the federal government, including INS, be established to provide states with information on size and other requested demographic characteristics of Newcomer populations on an ongoing basis.

Recommendation 11: The Legislature should request that INS tapes on Newcomer populations be available to states at no charge.

Recommendation 12: The Legislature should request funding to conduct targeted population surveys of Newcomers to identify estimates of Newcomers and undocumented aliens. Surveys should be limited to areas assumed to have heaviest concentration of Newcomers within the state.

Recommendation 13: The Legislature should request that the federal government establish a policy where states could legitimately estimate costs and receive reimbursements for services provided to Newcomers, including undocumented aliens.

Rationale for recommendations 10 - 13: The federal government is responsible for the creation of immigration policy, immigrant program policy, securing the borders of the country, and for collecting and maintaining records and other census information on

Newcomers. State and local governments are responsible for providing services and programs for residents within their respective political jurisdictions. State and local governments require information and resources for the planning and implementation of programs that serve state and local residents. State and local governments require the cooperation and coordination with federal agencies, including INS, in order to provide adequate services to Newcomers without jeopardizing the quality and continuity of existing services afforded to residence at the state and local levels.

Recommendation 14: The Chairman of the Florida Advisory Council on Intergovernmental Relations shall communicate recommendations from the Council's Newcomer Study to the Florida Washington Delegation and express the importance of recommendations 10 - 13 and the necessary action required by Congress for the implementation of these highlighted recommendations. In addition, the Chairman or his designee, shall participate in discussions regarding the Council's Newcomer Study, the recommendations, and related issues during the Florida Washington Delegation roundtable discussion in February, 1994.



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner

425 Eye Street N.W.
Washington, D.C. 20536

CO 703.2030

The Honorable Karen L. Thurman
U.S. House of Representatives
Washington, D.C. 20515

MAP 16

Dear Congresswoman Thurman:

Thank you for your letter of February 4, with enclosures requesting information for the Florida Advisory Council on Intergovernmental Relations (ACIR) regarding their Newcomer program. You specifically wish us to address numbers 10 through 13 of the ACIR recommendations.

10. Statistical information is available from the Immigration and Naturalization Service (INS) to any State or Federal agency that requests it.
11. The INS does not have tapes available to States at no charge. We can provide statistical reports at a modest fee. At this point in time, Government agencies do charge each other for information, expected to be self-funding through user fees.
12. This question requires information not within the purview of INS.
13. The INS is not directly involved in the funding of or reimbursement for services provided to newcomers or undocumented aliens.

We appreciate your interest in this matter. If we may be of assistance in the future, please do not hesitate to communicate with this office.

Sincerely,

FOR THE COMMISSIONER

Ralph B. Thomas
Acting Director
Congressional & Public Affairs

Mr. CONDIT. And we will take the second panel, Mr. Eckert and Mr. Singletary. If you remain standing, I will swear you in, and we will give you an official introduction.

[Witnesses sworn.]

Mr. CONDIT. Let the record indicate they said I do.

And I am going to turn to my colleague and let her make the introduction of these two witnesses.

Mrs. THURMAN. Mr. Chairman, I thank you.

Mr. Secretary, we are very pleased to have you here, and I am very appreciative of your distinguished career in the area of corrections and with this particular department. I understand that you started your professional career working in juvenile corrections. Certainly it must be an advantage with that topic being discussed right now in the Florida Legislature, and I am sure they are using your information wisely.

You became, I understand, superintendent of the oldest and largest juvenile institution in the State of Illinois. You have been the region 5 director for the Florida Department of Corrections from 1979 to 1983 and then the Assistant Secretary for Operations at FDC, from September 1983, through April 1991. Presently, now you are the Secretary for the Department of Corrections.

I would like to add that what I truly appreciate and why I think Governor Chiles made the appointment is that here was someone who had worked within the system, who knew the system, who understands the issues, who understood what happens out there on an everyday basis and brings continuity to a position such as this. I think is wonderful. We are pleased to have you.

Mr. Eckert, we certainly appreciate the sheriff giving you the opportunity to be here today, and I am sure you have a very distinguished career in law enforcement as well. I welcome you and certainly do appreciate the opportunity to hear your testimony today. Thank you.

STATEMENT OF HARRY SINGLETARY, JR., SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS

Mr. SINGLETARY. Thank you. I thank you very much.

Mr. Chairman and Congresswoman Thurman, I am happy that you did win and you know we have gone and worked hard and certainly these issues are issues that not only affect Florida but—

Mrs. THURMAN. They can't hear.

Mr. SINGLETARY. These issues not only affect Florida, but there are five or six other States that they impact. I guess I also will try to be a diplomat and take the lead and talk about the things as they relate to Florida.

First, I have been struggling with these issues for about 11 years. When I was assistant secretary for operations, State of Florida, it fell in my responsibility to deal with the illegal aliens in the system and come up with a program to try to work it out. And we are talking about 11 years that I have been actively involved in this process.

I must say, over the 11 years, in working with the foot soldiers in INS, we have had tremendous cooperation. They have done a lot of things, they have worked very hard, they have been very attentive and I think they are working under some difficult cir-

cumstances with not enough resources. And I think that we believe—we believe they want to do a good job.

And let me just for the record—that pretty orange color, since we are in Gator country, we tried to get as close as we could to it, so we brought that bright orange color document which includes all our information that should be included in the record.

Let me talk about what happens in the Florida Department of Corrections with illegal aliens. We have five reception centers here in the State of Florida. Each inmate as he arrives at the center undergoes an interview by the correction staff there. The classification is done and anyone who appears to be an illegal alien, we set aside his classification admission summary.

At that point, the INS agents out of Miami or Jacksonville will come to our institution, will pick up that information, and they will return back to their location to assist to see whether that individual is in their system or whether that individual is to be tried for the exclusionary hearing, deportation hearing.

In December 1991, we allowed INS to look at our offender data base; so they have our offender data base, they are able to look at the criminal history and to make a determination about what crime that individual has committed and where they fall within the purview of their law. Then at that time, once that happens, the Immigration and Naturalization folks have a responsibility to put a warrant in place.

What they do, they send us a warrant saying that this is an individual we will probably want, we are interested in him. That individual then is scheduled for exclusionary hearing within our institutions.

We have about 8 locations around the State that we bring these inmates that are identified by INS to the exclusionary or deportation hearings where the immigration judge then will look at the case, look at the information, look at what is available, and make a determination whether that individual is deportable. Many times the individual inmate will have three or four hearings.

We many times have to provide the security to transport them to and from. We also in many cases have to assist in getting them with—getting some legal assistance and also in the process of getting interpreters to be certain that they understand what is going on in the appropriate language. Once these individuals are identified and there is a detainer placed on them, we work with INS to be certain that once they expire their sentence that they pick them up and they take them to locations all over the country to hold them until they are deported.

A great number of inmates have completed their deportation exclusionary hearing at the end of the sentence. Some of those who don't, they are released to INS and then that process continues in their custody, wherever they house them around the country.

We had a problem historically of having to keep individual inmates in the Florida system beyond their release dates. Today that is not a problem. INS has been very religious about picking them up at the end of the sentence.

We also have an agreement with them where we—depending on a schedule, the flight schedules, whatever, when they are here, where they can pick them up 10 days early, 10, 5, 4, which fits into

their schedule and fits into their flight plans, so we have worked out that situation with them with the State of Florida.

We need to look at—and I guess plain and simple, we have 2,700 individuals in our system today that we know that they are illegal because there are detainers on those individuals. We know there are people who are illegal in this country and that INS has interest in them because they have detainers, there are 2,700.

We have another 1,400 in the system today that are unidentified. We are in the process of trying to determine their status, whether they are individuals who can be released or individuals who we will then look at deportation. That means for us that there are 2,700 prison beds that are being occupied by people who are not citizens, that are being occupied by people who have come in this country illegally, who are occupied by individuals who committed crimes in this country and failed to take advantage of what this country would offer.

There are several issues: No. 1, these 2,700 inmates cost us \$42.52 a day. So if you multiply that times 365 days, you are talking about \$41 million in operating costs. To build 2,700 prison beds, to house these folks, would cost you \$59 million. So right now, today, just in 1993, we are in the process—and before the legislature, we have two bills, a probation bill in the House and Senate, \$293 million. That \$293 million will build 14,665 prison beds, to end early release in the State of Florida by December 1995.

If any portion of those illegal aliens are out of the system, it will save us \$42.52 a day, and also \$21,000 per prison bed. And so you look at that cost, you are looking at today, for those illegal aliens, will cost \$100 million for the State of Florida Department of Corrections just in that 1 year in operating cost and plus construction cost.

Also, today we know we have about 5,048 individuals who are out in the community on probation and parole services. That means they went to court, they had done something that was not worthy of commitment to a correctional system, so they were put on probation, and we are supervising those individuals.

Now, we don't have a pure number, knowing which one of those are documented, those who have detainers, so we don't have that figure for them; but the only hard and real figure I know today, that there are 2,700 sitting in prison around the State of Florida that there are detainers for and that they can be deported tomorrow, depending on when they finalize their exclusionary deportation hearing. There are detainers on them.

The other thing, over the last 7, 8 years, and it is also in the document, we have spent about \$130 million on aliens other than Mariel Cubans, about \$52 million on Mariel Cubans. Under the reimbursement program for Mariel Cubans, the State of Florida has been reimbursed about \$11.4 million. Last year, we got \$671,000, when we had about 600-plus Mariel Cubans in the system. So something happens and the appropriation went someplace else other than coming to the State of Florida.

Finally, overcrowding in this system has really, I feel, made it very dangerous for law enforcement. It has made it very dangerous for the courts there; is not a great deal of respect. We have been releasing folks in the State of Florida—right now, the State of Flor-

ida, 41.5 percent is the average what an individual serves of their prison sentence; 51.5 percent for a violent offender.

We have been releasing people back on the streets of the State of Florida, and one of the problems has been because bed space has been occupied by people who otherwise we could have moved him out of the system. As a State, we are trying to work now with INS, that once these individuals have gone through the deportation process, that they are deportable, and if they have nonviolent offenses, we think we need to get them out as soon as possible, as long as they voluntarily would like to return to their country. So it has a tremendous impact on the operation and costs of the prison system.

Also, we have a danger factor. Every time there is any indication, newspaper, grapevine or otherwise, that illegal aliens will be moved out of this country, particularly going back to Cuba, we have a security problem. We end up having problems with escapes, end up having problems with people doing different varying kinds of things so that they will not be deported back to Cuba.

Because of some of the problems that the Federal Bureau of Prisons has with their illegal aliens, the Florida Department of Corrections has a system where we will not put over 15 percent of our inmate population in any one institution, to be illegal aliens, to try to mitigate the opportunity of problems of us having a large-scale rioting or disturbance. So we have a lot of staff time tied up into being at certain institutions or what is the right mix in those institutions.

We have a great deal of staff involved with determining at the front end whether these individuals are illegal aliens. We have a lot of staff involved with transporting people back and forth. And my suggestion is either that we get reimbursed for this, we move them to the Federal Bureau of Prisons, and those regional prisons, that they will take care of that issue. And also look at some early intervention after they are involved, and once it has been determined that they are deportable, that as soon as possible, those non-violent folks and less serious folks need to go back to their own home country and leave space in the prison system for the violent and dangerous folks who are preying on the citizens of the State of Florida.

The rest of the information is included in our presentation but that is a real thumbnail sketch of what we are doing here in the State of Florida.

I must also say in closing, our relationship with INS has been a very good relationship, with the people locally and people in Miami, the people in Jacksonville, and they want to do a good job.

If you all could get them the appropriate resources, I am certain they would do the good job they have done in Florida.

They want to do the pilot program, they granted \$200,000 to get us involved, the INS immigration information system, and so we will work through those kinds of things. Mr. Kleinknecht and I have had some conversations, so they are interested in helping the State of Florida get out of this problem.

And I think we need your muscle and we need your direction, guidance, and support that we can do for INS—what we do for INS, certainly, we are going to do for the State of Florida, State of California, State of Texas, Illinois, and New York. So we all need your assistance.

[The prepared statement of Mr. Singletary follows:]

3/28/1994

STATE OF FLORIDA
DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY

IMPACT OF ALIEN INMATES ON PRISON SYSTEM

ISSUE:

Having an inmate's status determined by the Department of Immigration and Naturalization Services (INS).

All inmates received by the department are initially classified as close custody. Before an alien inmate can be authorized a custody reduction or be allowed to participate in work release, INS must determine if they will be detained upon release. Staff make a preliminary determination on citizenship: all non-citizens are scheduled for interviews at the reception centers with INS agents.

This process is time consuming and, the alien inmate is in limbo until INS makes its determination. Once the determination is made, the department can appropriately classify the inmate. The state's cost is increased if the alien inmate is maintained in a higher custody because of a delay by INS. The alien inmate could be placed in reduced custody or work release as soon as we are provided the information regarding deportation.

ISSUE:**Scheduling hearings throughout the state.**

Once an inmate is identified as an alien, INS can place a detainer and schedule a deportation hearing, as long as the inmate does not have an appeal pending on his conviction.

Inmates are located throughout the state from Pensacola to Miami. INS does not want to hold hearings at all locations. Consequently, the department arranges the hearings in each region. This means we must transport inmates from all institutions in the region to one location; this includes arrangements for supervision, transportation, and feeding costs of the inmates. We also must pay overtime costs for officers supervising the inmates if they have not returned to the originating institution within their eight hour shift.

Additionally, we have had to provide interpreters for the inmates and occasionally accommodate alien inmate attorneys and witnesses who have been authorized to attend the alien's hearing by INS. It should be noted that most inmates have at least two hearings and some have three.

ISSUE:**Overcrowding**

The department has incarcerated over 2,000 non-citizens a year since 1988. If these inmates had been deported rather than imprisoned, thus increasing our inmate population, we would have had sufficient bed space to house an additional 2,000 plus felony offenders in the

system without the need to construct additional beds or release inmates earlier than the expiration of sentence.

ISSUE:

Picking up alien inmates upon expiration of sentence by INS.

There have been problems with inmates not being picked up by INS at the expiration of their sentence. The department has no authority to detain alien inmates beyond the expiration of their sentence. If they are not picked up at the end of sentence, we may be forced to release them to the community.

The department and INS have a good working relationship and this is less of a problem today than it was in the past. In the past however, we retained custody for INS for several months past an inmate's sentence expiration date. As a result, other inmates had to be released early because of overcrowding in the prisons.

ISSUE:

Escapes and potential serious incidents.

Escapes and serious incidents increase dramatically each time the alien inmate population believes that our government is negotiating for their return to Cuba. Those offenders who are designated as Mariel Cubans become extreme escape risks, and there is the potential for violence.

The first time we received information regarding the possible deportation of Mariel Cubans, there were 26 escape attempts overnight in our work release and minimum custody facilities.

We are also affected by actions taken by the federal system as well as incidents within federal institutions. Because of these potential problems, we have determined that no prison should house more than a 15 percent Mariel Cuban population. We must continuously monitor the number of Mariel Cubans within the system and transfer inmates when the population surpasses the 15 percent cap.

ACCOMMODATIONS:

We provide INS with access to the department's inmate based information system to expedite determinations.

We meet at least annually to do "the year-end review" and discuss future concerns or problems.

We have established a position in central office assigned the lead responsibility to interact with INS, thereby ensuring open and positive communication.

HKSJr/KF

DEPARTMENT OF CORRECTIONS
1993 COSTS FOR ALIEN CARE

	<u>#Aliens</u>	<u>1993 Costs</u>
Community Supervision	5084	\$ <u>6,806,527</u>
Incarcerated:	2700*	
Operating Costs		41,391,000
Fixed Capital Outlay		<u>59,400,000</u>
(Construction)		
Sub-Total		<u>100,791,000</u>
Grand Total		<u>107,597,527</u>

*Does not include approximately 1400 undocumented aliens

Other Alien Incarcerations

100% State's Cost (General Revenue)

Fiscal Year	Number of Inmates	State's Per Diem Cost	State's Total Cost	Federal Amount Reimbursed	State's Net Cost
1988	1,288	\$35.78	\$13,775,815	\$0	\$13,775,815
1989	1,425	\$38.14	\$17,844,516	\$0	\$17,844,516
1990	1,489	\$39.73	\$20,213,829	\$0	\$20,213,829
1991	1,765	\$40.27	\$24,774,418	\$0	\$24,774,418
1992	2,013	\$41.92	\$26,414,337	\$0	\$26,414,337
1993	2,042	\$42.56	\$27,726,342	\$0	\$27,726,342
CUMULATIVE TOTAL					\$130,749,258

Mariel Cuban Incarcerations

Fiscal Year	Number of Inmates	State's Per Diem Cost	State's Total Cost	Federal Amount Reimbursed	State's Net Cost
1986	N/A	N/A	N/A	\$1,873,678	N/A
1987	N/A	N/A	N/A	\$1,809,442	N/A
1988	810	\$35.78	\$10,578,357	\$1,744,178	\$8,834,179
1989	726	\$38.14	\$10,106,719	\$1,474,734	\$8,631,985
1990	710	\$39.73	\$10,296,030	\$1,388,332	\$8,907,698
1991	732	\$40.27	\$10,759,339	\$1,320,540	\$9,438,799
1992	548	\$41.92	\$8,384,838	\$1,158,890	\$7,225,948
1993	658	\$42.56	\$10,221,635	\$ 671,902	\$9,549,733
CUMULATIVE TOTAL					\$52,588,341

Alien Supervision Costs (Probation and Parole)

100% State Cost (General Revenue)

Fiscal Year	Total # of Offenders	SUPERVISION		Community Control	Pretrial Intervention	Total
		All Types	Regular			
1980	245	\$85,848	\$0	\$0	\$0	\$85,848
1981	445	\$151,055	\$0	\$0	\$0	\$151,055
1982	862	\$358,678	\$0	\$0	\$0	\$358,678
1983	1,353	\$651,875	\$0	\$0	\$0	\$651,875
1984	1,773	\$1,028,961	\$0	\$0	\$0	\$1,028,961
1985	1,967	\$1,191,805	\$0	\$0	\$0	\$1,191,805
1986	2,211	\$1,371,926	\$0	\$0	\$0	\$1,371,926
1987	2,655	\$0	\$1,641,485	\$247,820	\$0	\$1,889,305
1988	2,898	\$0	\$1,898,533	\$595,023	\$9,235	\$2,502,791
1989	2,858	\$0	\$2,082,307	\$589,844	\$3,446	\$2,675,597
1990	3,190	\$0	\$3,056,948	\$509,504	\$20,148	\$3,586,600
1991	3,962	\$0	\$4,022,972	\$591,804	\$43,274	\$4,638,050
1992	4,801	\$0	\$5,253,095	\$872,777	\$35,872	\$6,161,744
1993	5,084	\$0	\$5,886,592	\$863,564	\$56,371	\$6,806,527
						CUMULATIVE TOTAL
						\$33,120,761

IMMIGRATION PROCEDURES

Coordinated By

ADULT SERVICES PROGRAM OFFICE

Director, Ron Jones



March 28, 1994

IMMIGRATION PROCEDURES

- I. INVESTIGATION DURING RECEPTION PROCESS**
- IMMIGRATION HEARINGS**
- III. RELEASE OF INMATES TO INS**

I. **INVESTIGATION DURING RECEPTION PROCESS** - The INS Investigative Unit has responsibility for the following:

1. **Review Process**

The Department of Corrections has five reception centers: North, Central, and South Florida Reception Centers, and the Florida and Broward Correctional Institutions.

- Inmates arrive at reception centers and undergo interviews with Department of Corrections staff.
- Classification and admission summaries of suspected aliens are set aside for review by immigration agents.
- An INS investigator picks up classification and admission summaries and conducts criminal record checks (FCIC/NCIC) on all suspected illegal aliens. (They check their alien information system to determine alien status).
- The INS investigator returns to the reception center to interview inmates that have been identified as illegal aliens.

** Effective December 6, 1991, the Immigration and Naturalization Investigation Unit was granted restricted access to the Department of Corrections' Offender Based Information System (OBIS). In essence they were granted viewer capability.

2. **INS Detainer (WARRANT) Responsibility**

- INS reviews the FCIC/NCIC judgment and commitment papers to determine whether an inmate's crime is a deportable offense. If so, a detainer (warrant) is lodged.
- The detainer is mailed to the Department of Corrections, entered into the central office data base, copied and placed in the appropriate inmate file at central office level.
- The institution then receives the paperwork, which must be delivered to the appropriate inmate as formal notification that a detainer has been lodged by INS.
- If an inmate is not interviewed during the reception process but is suspected of being an illegal alien, the central office is notified and makes an inquiry of INS. INS is then given up to six (6) months to review the inmate for deportability. If decision is not to place a detainer, or if INS has not made a decision within 6 months, the inmate is treated as any other inmate.

III. **RELEASE OF INMATES TO INS** - The INS Detention and Deportation Unit has responsibility for this process.

Beginning January 1991, the department notified INS that they may pick up inmates with INS detainers up to ten (10) days prior to their scheduled release date. In effect, the department would no longer keep inmates beyond their release date, as in past practices.

The current procedure is as follows:

- On a weekly basis, the Department of Corrections provides the Immigration Deportation and Detention Unit, a list of inmates whose sentences will expire within ten (10) days thereby making these inmates eligible for pickup by INS representatives.
- A copy of this list is generated to the respective institutions in order to prepare inmates for release.
- INS, in turn, notifies the respective institutions of the specific date they will pickup inmates prior to the official release date.
- If inmates are picked up in advance of the sentence expiration date, INS must retain the inmates in the State of Florida until the expiration of their sentence.

Because of the emphasis on the alien and illegal alien inmate population, a Central Office liaison position was established. This position is responsible for the total alien program and handles the increased work load of activities between INS and the Department of Corrections. Thus the department has centralized its activities to allow for better coordination between our entities, in the interest of eliminating duplication and minimizing errors. The Department of Corrections continues to maintain a positive working relationship with INS.

- The department is expected to meet the inmates program needs -- including work release. If INS does decide to place a detainer on an inmate, that inmate must be medium or close custody.

II. **IMMIGRATION HEARINGS** - The INS Detained Criminal Alien Program Unit has responsibility for this process. The Department of Justice appoints judges to conduct the immigration hearings.

Immigration Court notifies the Department of Corrections three (3) weeks prior to scheduled hearings. A list of inmates including the date, time, and location of the hearing is furnished to the Department of Corrections.

- By computer message, the Department of Corrections notifies institutions with inmates scheduled for an immigration hearing of the date, place, and time.
- Hearing notices are mailed to the appropriate institutions and must be delivered to the appropriate inmates ten (10) days prior to the scheduled hearing date.
- Once an immigration hearing has been established, no transfer movement is granted these inmates with the possible exception of medical, protection, and/or security reasons.

Immigration hearings are held at the following seven (7) locations within these five (5) regions:

Region I

Apalachee Correctional Institution

Region II

Union Correctional Institution

Region III

Sumter Correctional Institution

Region IV

Martin, Dade, and Broward Correctional Institutions

Region V

Charlotte Correctional Institution

Mr. CONDIT. Mr. Eckert.

STATEMENT OF MAJ. JIM ECKERT, ALACHUA COUNTY SHERIFF'S OFFICE

Mr. ECKERT. Yes, sir, first of all, I want to thank you for allowing us to appear here. I have a letter that I wrote, and rather than read it into the record—unless you would like me to—I can just go ahead and sort of paraphrase it.

Mr. CONDIT. Without objection, we will put your entire statement and the letter in the record. You can paraphrase for us if you like.

Mr. ECKERT. Basically, I want to thank you for allowing us to be here. I think it is great that we can always meet with our congressional Representatives on this matter or any matter of mutual concern. Basically, what I would like to talk about is the Gainesville, Alachua County area as a community.

We have many foreign nationals in Gainesville. They are generally associated with the University of Florida, and typically are students. There is very little contact here with illegal aliens in this part of the State.

Generally, the contact we do have with illegal aliens tends to be seasonal, in that we have migrant workers that come up through the area during certain times of the year; and I would suggest that would begin in the next few months.

Our problem, and I think this is typical of most local law enforcement agencies, the sheriff's office and probably the police department, is that we have—if we do find an illegal alien, we have to call Jacksonville to get a response.

And these people in Jacksonville, INS people, just do not seem to have the staffing levels that they need to assist us. Their response is always immediate, but it tends to—it tends to take 2 or 3 hours for someone to get here from Jacksonville to answer our needs.

Another problem that I see as far as our interactions with the INS, is the lack of—I guess the lack of knowledge on our part and the lack of, I guess, techniques in identifying an illegal alien. We simply are not equipped or trained very well in the identification of an illegal alien.

Our jail generally does backgrounds, but our jail, both the sheriff, the Gainesville Police Department and other law enforcement agencies, is staffed or is managed by the county commission. And sometimes through their intake policies and processes, they can identify individuals that are illegal aliens; but from a standpoint in the field, it is a very difficult—it is very difficult to do that.

I must tell you, I hadn't thought about this, but in hearing Mr. Singletary speak, one thing that we in law enforcement talk about a lot is empty bed spaces in the jails and in the prisons and the need for empty bed space. And I certainly would strongly support his efforts in getting these people out of the jails and out of the prisons and opening these prison facilities up for I guess our own criminals, for our domestic criminals.

I think generally, again, our interactions with INS tends to be few and far between. I spoke with some of our watch commanders who are lieutenant rank people and their discussions and interactions indicate to me that contacts with INS generally are months

apart. Again, the response of INS from Jacksonville does take 2 or 3 hours or more, and consequently that may tie up a deputy or police officer in the field for that period of time while we decide really what we do. So if I could say anything, I would urge you to get these people out of our State prisons; I would like to see some input in staffing.

I know illegal aliens do impact Gainesville. Last year about this time, we had a homicide in Alachua County. It started out actually in south Florida as a robbery abduction and the body ended up being dumped here. These individuals were ultimately apprehended in a border town in Texas and they ended up all being illegal aliens. So, you know, these are some of the problems we are faced with.

[The prepared statement of Mr. Eckert follows:]

SHERIFF**STEPHEN M. OELRICH**

Alachua County Sheriff's Office
Post Office Box 1210 • Gainesville, Florida 32602-1210

March 28, 1994

The Honorable Karen L. Thurman
Congress of the United States
House of Representatives
B-349- C Rayburn House Office Building
Washington, DC 20515

Dear Ms. Thurman:

Thank you for your invitation to appear before your Subcommittee to discuss illegal criminal aliens. Because Sheriff Oelrich will be unable to attend I am honored to represent the Alachua County Sheriff's Office in his behalf. As always, this is a wonderful opportunity to meet with our Congressional Representatives to share our views on matters of mutual concern.

The Gainesville/Alachua County area is a multifaceted community with the University of Florida as a central figure in the area. Most of those individuals in our community who are alien residents tend to be associated with the University of Florida and are either on the faculty or are students. These individuals, who add to the cultural diversity of our community, generally tend to be the victims of crimes as opposed to the perpetrators. In addition, our county generally lacks the manufacturing base which might attract generally unskilled, underpaid laborers to work in factories or clothing district areas. Larger cities such as Miami, Tampa, or Jacksonville would support such a manufacturing base.

However, certain times of the year migrant farm workers do come into Alachua County and work out of farm labor camps adjacent to nearby fields and packing sheds. It is during these periods of time that we are called upon to handle calls involving farm laborers and on very few occasions some are identified as illegal aliens. If the individuals are arrested or are identified as illegal aliens Immigration and Naturalization (INS) is notified. Unfortunately the closest office is in Jacksonville and there can be delays.

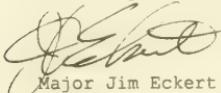
The Honorable Karen L. Thurman
United States Representative
March 28, 1994
Page 2

While our contacts with INS are generally few, I would like to assure the Committee that the Alachua County Sheriff's Office works very closely with other federal law enforcement agencies. Our narcotics unit, for example, recently completed an investigation involving "crack" cocaine with the assistance of the Bureau of Alcohol, Tobacco, and Firearms and the local FBI Office. Thirteen people were indicted throughout the State and many of those indicted were arrested here in Alachua County. The local DEA Office has also participated with us in drug investigations and even assisted us in a recent unsolved homicide investigation. As Alachua County continues to grow, I would expect that a problem with illegal aliens might accompany that growth. Last winter for example a body was found dumped in a remote area off of Interstate 75. This individual was later identified as having come from a Central Florida labor camp where the botched robbery/abduction began. The killers were apprehended weeks later in a Texas border town and were illegal aliens.

In an attempt to assist the INS, I might suggest training presentations be put on by INS in the identification of illegal aliens. Typically the average policeman or deputy sheriff has little to go on in terms of identifying an illegal alien. Language barriers present additional problems.

Again, I want to thank you for the opportunity to appear before you on this issue. We are committed to working together with all of the professionals in the Department of Justice in addressing problems of criminal aliens and we look to the federal government to assist us in these matters.

Sincerely,



Major Jim Eckert
Director of Operations

JFE/rsb

Mr. CONDIT. Major, thank you very much.

And we are going to, if we may, ask both of you to stay on the panel.

The Governor has arrived and we would like to ask him to come up. We know he is busy and we just really appreciate him being here.

So maybe if I could ask you to move over, one of you, and have the Governor come up.

Governor Chiles, thank you very much for being here today. We are honored to have you here. You sent a couple good representatives before you got here to testify.

I personally want to tell you that I appreciated support that your office in Washington, DC has provided to us in this effort to require the Federal Government to take its responsibility for immigration policy and begin some movement in financial reimbursement to States.

You have been a leader in that area and I want you to know that as one who comes from California I can sympathize with your concerns and I appreciate your leadership.

I am going to turn to my colleague, Mrs. Thurman, to make formal introduction of you and then you can make whatever remarks you want.

Mr. CHILES. Thank you, Mr. Chairman.

Mrs. THURMAN. Governor, I don't think there is anybody in this room that doesn't know who you are and what you have done for the State of Florida, during a very distinguished career. You have a dedication not only to this State, but also this country. I want to personally thank you for your leadership with the president of the Florida Senate and the speaker of the Florida House several weeks ago in bringing to the forefront issues that the Federal Government needed to be addressing to help States and local governments in pursuing good government for all of us.

Your leadership on illegal immigration has prompted one, this congressional hearing; and two, for stating plainly, we need some help. I had an opportunity to talk to the president's staff the other day, and your name is synonymous with this issue.

We appreciate your leadership and look forward to your testimony today. We will be taking this back to our colleagues, and we will make sure that they understand the impact that this issue has on not only our State but other States, such as our chairman's, who has given so much of his time here to help us today. So we thank you for being here.

Mr. CONDIT. Governor.

STATEMENT OF LAWTON CHILES, GOVERNOR, STATE OF FLORIDA

Mr. CHILES. Thank you, both.

Mr. Chairman, welcome to Florida. We appreciate the leadership that your subcommittee is exhibiting in one of the most costly Federal mandates Florida has ever been handed.

Representative Thurman, we certainly thank you for your service in this regard and welcome you home, and we thank you for your role in trying to bring this question of illegal immigrants' costs to

light, to Federal light, where certainly it has been in the State light.

I want to make it clear from the outset that Florida is very proud of our rich immigration heritage. The people who have come here from other countries have left their mark on every aspect of our lives; from businesses to politics to arts, our diversity has given us an international character. It makes our State a unique place to live and to work and to visit.

We welcome all of those people who have come to Florida legally, but there are many thousands of others who have come in violation of Federal law, and for them we ask that the Federal Government acknowledge and accept responsibility for the services that Florida must provide.

The Immigration and Naturalization Service estimates that there were 345,000 illegal immigrants living in the State in 1993. At the State level, we have neither the ability nor the authority to regulate our borders. That is the exclusive domain of the Federal Government, as it should be.

But along with the authority, also should come the responsibility for paying those reimbursing costs. Right now, it is the States and not the Federal Government that are forced to shoulder the burden, and that is simply not right.

The States have a practical and legal responsibility to provide services to everyone, regardless of their citizenship or resident status. We will not and have not in Florida refused to educate a child; we will not refuse medical care to the sick. We can't do that because, in effect, we have to protect our own citizens, and that child that we fail to educate is out in the street committing crimes or doing problems out there. In short, we haven't shied away from this obligation.

Floridians, I think, have done more than their fair share to help people that come from—arrive on our shores, but it is time that the Federal Government shoulder its share of the responsibility. We just don't want to pay Washington's bill any longer. That is a message that we repeated many times, in many different ways.

After years of effort, perhaps we are beginning to see some results. I am pleased with the progress we are making in discussions with the White House. I have joined my fellow Governors from California, Illinois, New York, New Jersey, Texas, Arizona, in forming a working group with the administration to identify the areas in which illegal immigration has the greatest impact, and how the Federal Government can reimburse those areas.

As you are aware, we are working with our delegation to influence the crime bill, health care reform laws, and education legislation to provide more Federal dollars in these areas. We have had some early success, including increasing the level of authorization for the Emergency Immigration Education Act. That effort was led by you, Congresswoman Thurman, and Congressman Johnston, with assistance from other delegations.

We have also increased awareness of and hopefully funding for reimbursement of incarceration costs of the illegal alien.

Mr. Chairman, I know that is an issue that you worked closely on. I want to thank you personally and publicly for your efforts.

We are continuing to work with the Justice Department and the INS to develop a memorandum of understanding that will allow us to accelerate the deportation of many of the 4,100 criminal aliens that we now incarcerate in Florida. We, as you have heard, need that space in our prisons for violent criminals.

Our clemency powers have enabled us to conditionally commute sentences of these nonviolent criminal aliens so we can rapidly deport them. I believe that all these efforts are pushing the Federal Government slowly toward a more realistic and enforceable immigration policy.

However, I don't believe that the heavily impacted States like Florida and California can afford to relax. That is why we have asked our staff to spend several months in documenting the costs of illegal immigration into our State. And that report, "The Unfair Burden," details how local and Federal—local and State governments in Florida spend some \$884 million in 1993 to provide services, education, in health, and in criminal justice cost.

The Limited English Proficiency Program alone costs State taxpayers more than \$180 million in 1992 and 1993; health care, social services, more than \$13 million. We spent \$28 million to arrest, to prosecute, and to incarcerate criminal aliens.

In addition to our State costs, Dade County can attest they spent an estimated \$662 million. So that total every year on illegal immigrants, is \$884 million that we do not—we cannot fund services for our own people.

You know, Congresswoman Thurman, that our schools are too crowded, our waiting lists are too long in everything from daycare, to Head Start, to kindergarten.

We have major problems in our prisons. When I became Governor we had violent criminals that were serving 30 percent of their time. We have now moved that up into the 50's percent, but it is still way short of where we would like it to be.

You have heard from some of our officials, our HRS Secretary Jim Towey is here, and I think our Medicaid Administrator Marshall Kelley and Robert Connors from the Department of Education—I don't know whether they have had a chance to testify, I know Mr. Towey hasn't, but they will give you some kind of details.

But again, we want to thank you very, very much for coming here. We want to join with you in helping to address this very, very serious problem.

Mr. CONDIT. Thank you, Governor. We appreciate your comments and the spirit of your comments, we concur and would like to be associated with your comments.

Governor, one of the problems that we are being faced with in our fight in Washington, DC to provide reimbursement to States and local governments, is that some of our opponents are arguing that the methodology used by States and counties in measuring the financial impact of illegal immigration are inaccurate and therefore the Federal Government should not provide reimbursement.

You have got a couple people with you here today. What do you think of that and can you give us some comments on that attitude in opposition?

Mr. CHILES. Well, Mr. Chairman, I think it is an interesting argument that they make, especially when the Federal Government

by law and by regulation prohibits us from getting some of the counts and measurements that would be needed. We are not allowed to ask children in the school and to seek their status; we are, you know, not allowed to question people that come in for some emergency care.

Then INS and others will tell you that their figures are based on estimates. So it is kind of a strange argument that they will make. On the one hand, they prevent us from being able to count, and on the other hand, they say we can't pay you because you don't have the right numbers.

We have spent considerable time to come up with our figures. I am looking forward to getting into court, if I have to, where we can have an evidentiary hearing and let them come with their numbers, if our numbers are wrong. I am not sure that our numbers are totally accurate. I suspect we have erred on the low side, but without more help from the Federal Government, without them allowing us to find this information out, they will always have that argument.

Mr. CONDIT. If you could comment on this, there has been much discussion in Washington, DC from those of us who have waged this immigration reimbursement fight about your possibility of legal action; what is the status of that?

Mr. CHILES. Well, Mr. Chairman, we had to get our report, you know, so that we would have a basis. We are in the final things of discussing with our lawyers the complaint that we will bring. And I suspect within the next several weeks we will be filing suit.

Mr. CONDIT. Have you approached or had a discussion with any other States that are impacted like this, whether or not they would join in?

Mr. CHILES. We have talked with a number of States, and at one time we were determining what forum we would try to go in. If, you know—I think that to go into the Court of Claims, we could spend forever and just disappear. And perhaps in Florida we will probably look at approaching the southern district of Florida, but we are copying all of the other States with our legal memorandum and our complaint and things.

Mr. CONDIT. We will watch with great interest what you do in that area.

The Governor of California, as you know, and the Governor of Texas, have expressed some interest in this issue, so we will be watching and any information you can provide to this subcommittee—we want to be helpful—please let us know.

I also want to get one general comment from you, if I may. I chair a caucus that I started in Congress called the "Unfunded Mandate Caucus." It is kind of strange that we would have to create an "Unfunded Mandate Caucus," but it has over 100 Members of Congress. And it is a caucus that educates Members about unfunded mandates on local, State, and county governments.

And you have kind of made reference to it, but just for the record, can you talk a little bit about unfunded mandates on the State of Florida and whether or not you have had to cut programs because you had Federal mandates that were not reimbursed outside of this area of incarcerating illegal aliens?

Mr. CHILES. Well, Mr. Chairman, I think you know we could take the rest of your morning if you wanted to talk about—

Mr. CONDIT. Well, I know you have a busy morning; maybe you could just make a comment.

Mr. CHILES. It is a major, major number. And we run into those in education; we run into some in our incarceration with exchanging Federal prisoners; we run into that certainly in our health care, with our seniors. So it is across the gamut that we find these unfunded mandates.

We are not immune from that, with our local governments saying that to the State government. In fact, we have passed a constitutional amendment prohibiting us from passing on unfunded mandates, and yet, you know, the Federal Government sort of passes them to us. So I am delighted to hear of your caucus.

We also know, Mr. Chairman, that if we had the Congress people together from Florida, Texas, California, New Jersey, Illinois, New York, and Arizona, we would have a majority of the House of Representatives, so getting together and looking at some of these funding formulas, looking at how we can address those, I think are things that we very definitely must do to protect our States.

Mr. CONDIT. Just one more pitch, and then I will turn it over to my colleague.

In addition to the Unfunded Mandate Caucus, I have a bill in the Congress, which is H.R. 140—and someone from your staff might want to write it down—which simply states that the Federal Government must reimburse the cost of legislation if it is mandated on States and local governments; if it is not reimbursed, then the program is voluntary.

Now, in Washington, DC, Mr. Governor, that is a radical idea, to pay for what you mandate. So whatever you can do to help with the Governors Association or with the Florida delegation—which most of them already are cosponsors, we are approaching about 180 coauthors in Congress. The whole concept is to get Congress to quit passing “feel-good legislation,” which simply means we get to pass it and feel good about it, and you get to pick up the bill. And we want to put a stop to that if we possibly can.

So I am encouraging you, if you can in any way, to help me. I think that deals with the total of unfunded mandates, not only the prison problem we have.

Mr. CHILES. I think so.

Again, it brings us back to what federalism is all about, and that is how we share responsibility; and we need to share authority and responsibility, yes, sir.

Mr. CONDIT. Absolutely.

Mrs. Thurman.

Mrs. THURMAN. Governor, when we met in Tallahassee a couple of weeks ago, we talked about the crime bill in another manner, too. That was the issue of regional prisons, where the requirement would be made by the Federal Government of the “85 percent time served,” and you asked us on the definition of violent crimes—I think one of the interesting things is—

Mr. CHILES. If I might just mention on the “85 percent of time served,” as long as that is in there, Florida, Texas, California, New York, New Jersey, none of those States will get \$1 out of the crime

bill. Because, you know, by virtue of problems that we have, I know of no State that is close to that number, other than maybe very small, you know, some of the very, very smallest of States. So that is again, you know, sounds good, but it won't do anything.

Mrs. THURMAN. Well—and with that, one of the things that I just thought of a few minutes ago, is that we might suggest with this illegal undocumented alien issue within our prisons, that that might help us reach that 85 percent if we were able to somehow put some language in the bill other than that.

Governor, let me also suggest to you that—or help Chairman Condit and I.

We did exactly what you suggested in trying to bring a coalition together of all of those States, the Arizona, the New Jersey, the New York, the Texas, the California, the Florida delegations and have tried to build that coalition. We were able to get 97 signatures on a letter to both Chairman Brooks and Chairman Moakley, requesting this issue be included in the crime bill. If you could help us, by contacting your fellow Governors, and have them lobby members of the Rules Committee, to make in order our amendment.

I will tell you what Rules' problem is. The chairman of the Budget Committee, Mr. Sabo, has decided that this is potentially an entitlement issue. We say that it is not an entitlement. In fact, due to the expertise of Mr. Condit and his staff, the amendment was drafted in such a way that it wouldn't become an entitlement. We are appealing to the Budget Committee now saying that we think Chairman Sabo's concern is unfounded.

We would certainly hope that you would help us as you talk with those Governors.

Mr. CHILES. You know, if you would identify for me those committee members, the Governors, we would be happy to try to contact them.

Mrs. THURMAN. Absolutely, we will make sure that happens.

Now, for clarification; I know that the impact on the State is \$884 million on a yearly basis; did you say that Dade County schools alone, pick up an additional \$664 million. Is that correct?

Mr. CHILES. No, that is cost to Dade County, not just to the schools. That is—

Mrs. THURMAN. And that is aside of the \$884 million?

Mr. CHILES. No, no, that is part of the \$884. That is Miami, Jackson, that is what they have to do in their jails, that is what they do in their schools, those costs.

Mrs. THURMAN. Governor, just for the record, when I was in the State senate, I found during the 1980's when there were, and even now, money problems—can you tell us the kinds of services that the people in Florida are not receiving.

Mr. CHILES. Well, as I pointed out to you, if you figure \$884 million, we do not have—we have a waiting list of daycare, supplemental daycare, 13,000. We have a waiting list of prekindergarten that is huge. We have, you know, waiting lists of trying to give help to women and children, age zero to 3. We are trying to bite off on that. We are placing all of those. So every area of our State is under pressure.

We are in the legislature now in our last couple weeks of our session, and we are arguing over whether the House or the Senate bill on education or—my bill is about \$60 to \$70 million more in education, and around \$50 million more in Health and Human Services, the budget that I have submitted.

Now, I would like to have submitted a bigger budget, but if we didn't have that pressure, you know, we wouldn't be talking about whether we are going to get out of here in 2 weeks or not.

Mrs. THURMAN. Governor, good luck. We will get the list to you of the members of the Rules Committee. I appreciate that; and your help.

Mr. CHILES. Thank you very much. I know that Chairman Towey of Health and Human Services, HRS, is going to testify. If you might take him out of order, I am going to need to take him with me shortly after I make one other stop. I would appreciate it.

Mrs. THURMAN. I don't think the chairman would mind that if we do that.

Mr. CONDIT. Whatever you folks in Florida want, we will do.

Governor, I really appreciate you being here. And let's not give up this fight until those checks start coming in the mail on a regular basis. We will hang with you.

We appreciate very much you being here, we really appreciate your leadership, we are happy that you are here.

Thank you, sir.

Mr. Towey, are you leaving with the Governor—

Mr. TOWEY. He is leaving separately. He has got me going to Tampa from here.

Mr. CONDIT. OK. Why don't you go ahead and make your comments.

Our two witnesses, we appreciate very much your staying.

STATEMENT OF H. JAMES TOWEY, SECRETARY, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, STATE OF FLORIDA

Mr. TOWEY. Mr. Chairman, Congresswoman Thurman, thank you for giving me the opportunity to come here.

If I could just take a second to talk about our department—I have provided the committee 75 copies of written testimony, which I will submit—and then kind' just be more open to the specific concerns you have regarding Department of Health and Rehabilitative Services.

We are the largest health and social service agency in America; we have 44,000 employees and a budget of \$4.7 billion. Because the State of Florida provides these health and social services as an umbrella agency statewide, that is why we are the largest agency in America. The other big States break it down by county and we don't.

What that means for us is that when State revenues come into the Department, we are then responsible for dispersing to all 67 counties in Florida their fair share of the budget—and as Governor Chiles has pointed out, and as Congresswoman Thurman knows extremely well, the State underfunds its health and social service programs desperately. And we are at a point now where—he was talking about subsidized child care—Governor Chiles' budgets con-

sistently have asked for more money for Health and Human Services, but the "No New Taxes" mantra has drowned that out.

As a result, there is a pinch on State money. And what we have found, particularly in Miami, is a growing concern regarding the uncompensated costs of care for illegal aliens. And I want to talk and focus your attention today, and I will just do this for a short period of time, Mr. Chairman, on what it means to run a health and human service agency in Miami and in Broward.

We have over 100 children today who enter America who are in foster care today, that the State is paying at least \$300 a month for foster care. For example, we had a case March 11, of a pregnant woman from Venezuela who came into our system because she was the alleged victim of sexual abuse, she had two children and was pregnant.

And the care that results because of that is great, when you find people coming not just from Cuba and Haiti, where so often the focus is on the desperate poverty there and what happens when people flee Cuba and Haiti and come to south Florida for refuge. We find that it is because of the diversity of Miami that we have got people arriving from all-Spanish-speaking countries, the poor arriving who then live underground. And this may not be a cost figure that Governor Chiles has been able to document, but it is similar to the underground population that you know well in California. I had the opportunity to live 13 months in Tijuana, Mexico, and to see the tension that existed at that border of people trying to cross and have their children in the United States so they would be born citizens of the United States.

We are finding as we are gathering the costs for Governor Chiles' lawsuit that there is an untold human cost to what happens when children arrive. They have no parents and they live underground as prostitutes or in virtual slave-labor conditions where they fear that if they surface, the INS will deport them, even though the INS actually doesn't deport out of Miami. We provide services there and have an excellent relationship with CRS and we appreciate what they provide in the way of care for the detainees, of the Haitian detainees at Krome. We provide family services for undocumented children, often through community programs that we fund through Boys Town, where these children—fully federally funded—are cared for, but the State also assumes a huge cost. We don't know the dollar figure yet, we are compiling that. We know we have over 100 children in foster care.

And I guess I would just close with that part of the presentation, Mr. Chairman, to say that the State of Florida does not wish at all to be inhumane. We want to care for these children. We simply cannot be put in a position, like I am put in the position now, of having to pick and choose who gets service and who doesn't, and watering down the terribly thin soup that we have today to serve the undocumented alien foster children and the more than 9,000 Florida children in foster care today.

In fact, the Governor is sending me to Tampa where there is a horrendous story of a child and family facing tremendous poverty coupled with a lack of State services we are able to provide. And yet we are facing now—as you see, a 65 percent, raft arrivals increase.

The most humane thing perhaps, a parent in Cuba or Haiti would say, is that they have no future here, so I am going to send them to Florida. That is our concern, because when they come to Florida they go underground and then we often don't see the child until they are abused and part of our foster care proceedings. This cost that is borne is tremendously high in human terms, not just in dollar terms.

We are asking the Federal Government, please help us. Don't make us choose who gets care and who doesn't, don't make us water down the soup. I believe we are working well with INS.

The last thing, finally, the very last, is to say that we need direction from Congress on how the Juvenile Immigrant Status Program is to be implemented. We can go and proceed in court to get children who are undocumented or even have relatives in America, to get them to special juvenile immigrant status which will lead to a legalization. Is that what Congress intends with that provision? I don't know, and it certainly isn't our responsibility to determine that.

But I am proceeding now with Greater Legal Services of Miami asking me why aren't you bringing every one of these children in as juvenile immigrant status?

So that is an issue I want to bring to the committee's attention.
[The prepared statement of Mr. Towey follows:]

TESTIMONY

Before the

INFORMATION, JUSTICE, TRANSPORTATION, AND AGRICULTURE
SUBCOMMITTEE
of the

COST COMMITTEE ON GOVERNMENT OPERATIONS

March 28, 1994
Gainesville, Florida

H. JAMES TOWEY
Secretary

THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES
STATE OF FLORIDA

Chairman Condit, Subcommitte members, Governor Chiles and fellow hearing attendees,
Good afternoon.

I am Jim Towey, secretary of the Florida Department of Health and Rehabilitative Services
and it is a distinct pleasure to be here today.

The Florida Department of Health and Rehabilitative Services or HRS, makes social services
and health services available to over 13 million Floridians. Among these people are nearly 2
million foreign born residents whose residency here in Florida is a direct result of federal
immigration policy.

Over 950,000 Cubans have sought refuge in the U.S. since Fidel Castro came to power thirty-
five years ago. It is estimated that as many as 85% have remained in Florida. It's also been
noted that of those who resettle elsewhere, many ultimately retire here. Beyond the Cuban
refugee and entrants are the Haitian groups, Russians, Vietnamese, Laotians and Cambodians
as well as many others. Our state's refugee population is as diverse as the United Nations.
And their arrival to Florida has in the long run been beneficial. Most have found far more
than refuge in our state. Through perseverance, courage and a helping hand, they have found
jobs, homes and the freedom to reach towards their dreams and goals.

Many of the stories behind the waves of immigration to Florida have been those of success.
Within nine years of arriving in Florida, one refugee rose from being almost penniless to
president of a Miami bank. His ascent was not gilded, he worked as a store clerk, rose to
office manager and ultimately moved into the banking arena. But to use his own words to
describe his and other refugees success, "They work. The man works, the wife works, the
children who are old enough work." Another in Tampa founded his own frozen food
company with a national reputation. He too worked very hard to make it in this country.

They are found in all walks of life, agriculture, the food industry, the service industry as well as corporate Florida. They have small business enterprises as well as large ones. Individually and collectively, refugees, entrants and Floridians have worked hard to become part of Florida's present and future. Some arrivals to shores however have not and those situations and their end result sadden us.

The united efforts and resources of a lot of people have helped lay the foundation for successful resettlement in Florida. Communities, local and state government as well as the public and the private sector have united time and time again to help refugees and entrants make the transition from trauma victim to successful citizen.

As mentioned by Governor Chiles the numbers of arrivals to the state are significant. Between refugees, entrants and immigrants and the various immigration status's the Immigration Service grants, anywhere from 3,000 to 70,000 legally admitted aliens find their way to the sunshine state each year--even those destined for another locale. One refugee was destined for a Midwestern state but when her flight touched down in Miami, she told the officials she did not want to go on. The International Office of Migration officials had a local voluntary resettlement agency worker come talk with her. She was told about her new home and also told that the resources to help her resettle were not available here in Miami. Furthermore, she was told that potentially she could be looking at being homeless and living on the street or under an overpass. She turned to the local voluntary resettlement agency and said, "Take me to where the other homeless live, I will not leave here." The story has a happy ending I can add, after many calls were made a friend of the woman's was found in the area. This friend had a place for her to stay and the chance at some employment.

The latest immigration wave to the US and Florida differs from earlier ones in scale, makeup and impact. These changes are due to federal immigration policy. Rather than coming from northern and southern Europe, they come from Asia, Latin America and other third world countries. As such in many cases they come with poorer health and less education. They tend to be younger than the median age of the US population which is 32. Although those settling in Florida (Central American 27, Jamaican 27, Haitian 28) are closer to that of the general population except for the Cubans whose median age is 39.

The majority of those entering come during their prime working and childbearing years. This is very true when we consider a profile of the recent Haitians paroled into Florida to pursue political asylum. Federal estimates place the percentage of Haitian arrivals in 1992 at between 80 and 90% of those approved for entry. The number is over 10,000. The number of Cubans who raft to the US and are paroled into Florida is at record proportions, this past January's arrivals exceeded the January 1993 figures by nearly 65%. The October arrival figures for Cuban rafters was 55% higher than the Cuban rafter arrivals for all of 1989.

They arrive by Coast Guard cutter, raft, wooden boat or are found on the beach. We try to get them a health screening and into medical treatment if they need it. The voluntary

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resettlement agencies try to get them a place to live and the documents they need. Hopefully they can get a job quickly, otherwise they may end up on public assistance (either AFDC or Refugee Cash Assistance).

When we look to the undocumented population other issues arise. They too try to become part of the community. They try to become "invisible" as visibility could lead to their deportation. Some of the women try to have babies late in life when they should not because this is the only way they can anchor themselves in this country. The babies are citizens yet their undocumented mothers are not eligible for the same medical care except for emergency provisions. What does this mean? They more often than not have NO PRENATAL CARE. This leads to low birth weight babies and all the asundry problems that come along.

Unfortunately the federal government's policies often do not recognize their impact yet the costs are born by the localities in which they live. The bulk of Jackson Memorial Hospital's health care costs for the undocumented 77% are unreimbursed.

Notwithstanding the differences in character, the relative impact of this third wave is compounded by the numbers and destination of legal immigrants and refugees entering the country. The post-1980 settlement patterns of these new arrivals also underscores the reasons for half the population growth in the country involves only three states, California, Texas and Florida. Three of every five new immigrants settles in southern and western states.

Some come in with sponsors who provide nothing but a signature on an Affidavit of Support and a first greeting upon their arrival. Others never even see that much, but they still try to make a go of it. We try to be there to assist them when we can. But the federal government has to recognize that federal policy impacts in both direct and indirect manners. It must stop and theorize how their policy will impact and provide appropriate remedies for problems that may surface. It is not enough to know that local and state programs will be there to pick up the pieces.

To understand how federal immigration policies impact Florida we need to look at who the various foreign born individuals are in our state and then outline the problems that immigrants, refugees and entrants face when arriving in their new communities. Refugees and entrants receive federally funded assistance at the state and local level in areas that often represent areas in which help is needed. This assistance is meant to mediate many of the problems newly arriving refugees encounter. There is NO comparable federal program to assist immigrants, legal or otherwise, except through emergency program parameters. When immigrants need assistance they look to sponsors, community agencies, county and/or city programs and state general revenue programs.

Immigration issues of any sort, are a constitutionally determined responsibility of the federal government. As a result of this fact, the procedures for entering the U.S. are regulated by federal legislation. I mention this fact because we are talking about the impact and problems

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immigrants, refugees and entrants, create and face when arriving in a new country. The problems do not merely surface upon arrival, they are an integral part of their past. Refugees and immigrants often experience protracted delays in being allowed to emigrate not only to the U.S. but to other countries around the world. The time spent waiting; trying to leave their native countries or refugee camps can lead to experiences which indelibly imprint themselves on the individuals and families. These experiences influence how well, how quickly and to a great extent, what aid they will ultimately need to access to be able to assimilate into their new country.

Immigrants must prove that they will not become a public charge and in most instances they quickly become productive tax paying residents. Of course there are always instances when their support system collapses and due to unforeseen difficulties they may need public assistance--here again federal immigration policies are very important in assuring that fiscal impact on state and local governments is minimized. Federal policy that allows them to stay in the country but that does not provide resources and/or manpower to deal with potential assistance needs, simply transfers the burden onto local and state agencies.

Refugees and entrants often come with only the clothing on their back. They need to be assured of food, clothing, shelter , medical care and acceptance--all of which are provided at the local level for specified period of time through federal funds. Here again, federal immigration policies are of extreme importance.

We endorse legal and humanitarian immigration. Freedom-loving Floridian's welcome freedom seeking refugees, especially those with family members residing in the area. At the same time, no one can dispute the serious resource problems state and local communities have experienced as a result of the massive legal and undocumented immigration flows to Florida and particularly the southern regions of the state. There are legitimate concerns about the social and economic costs associated with the infusion of foreign nationals and the arrival of thousands of new immigrants, refugees and entrants. Without a doubt, unless federal immigration policy recognizes its impact on the local and state levels and provides continuing assistance, local and state social service resources will be stretched to the breaking point. These added burdens are quite capable of making the crucial difference in the quality of life we provide all Floridians, native and foreign-born.

Sometimes first aid without follow up is more detrimental and costly than giving it what it needs at the time of the trauma -- we've all heard stories of what happens when we're told to complete our antibiotic treatment or come back to get the dressings changed and we don't -- the illness returns, the wound or break doesn't heal and thus we are less fit in the long run. The same is true for refugees and immigrants and their needs. They often need reasonable and adequate help up front, so that they can help themselves and others down the road.

In the final analysis, the lack of foresight on the part of federal immigration policy makers can lead to the obscurement of the positive aspects immigration makes on a community. States

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like Florida are often called upon to accept the lion's share of responsibility for providing these groups with emergency services such as health care and other basic subsistence needs. Sometimes we have to decide who gets what, thus placing us in the role of Solomon. We want to continue to receive refugees, entrants and immigrants, but to do so requires the federal government's open and honest willingness to share in both the good points and burdens that come along with immigration. We are ready to help this happen.

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Mr. CONDIT. We will get some information and, hopefully, clarify that for you as well.

I forgot and I apologize to you, Mr. Towey, to introduce you; the Secretary of the Department of Health and Rehabilitative Services and we are delighted to have you here.

It is difficult to follow the Governor, I know, but we appreciate you being here. I forgot to make a formal introduction or ask my colleague to.

Mrs. Thurman, do you have any questions for Mr. Towey? I know that he has to leave.

Mrs. THURMAN. Mr. Towey, there are a couple of things that we are trying to do with Medicaid right now, which is separate from the immigration issue. We also have a fault with the Medicaid reimbursement to the State of Florida. It does have a more positive impact on those States who are receiving an 83 percent reimbursement versus Florida which is receiving somewhere around 54 percent. So I think that helps us kind of go forth on that.

I also want to say that as we go through the budget or other legislative matters before Congress that might have a negative impact on the State of Florida, I hope you will contact myself or somebody within my office to make sure we have that information. I think we can clear up some of the ambiguities that come through Congress if we know how it will impact our State.

I will tell you that I certainly do understand the picking and choosing part of this, and it is not an easy job, and I know that you all have received criticism over the years. However, hopefully with colleagues like Mr. Condit and others maybe we can continue to put this issue in the forefront.

The last comment I would say is as Governor Chiles works with the other Governors, hopefully, you will be working with your associations in other States that you are in constant contact with and make the same plea to their Congressmen and Congresswomen to bring this matter to the forefront so that we can have an impact on what is happening. Thank you.

Mr. TOWEY. Thank you, Congresswoman.

Mr. CONDIT. You are welcome to take off.

Mr. TOWEY. Thank you, Mr. Chairman.

Mr. CONDIT. I appreciate you being here very much. I didn't mean it that way, I know you got to get going.

Mr. TOWEY. Thank you very much for bringing attention to that.

Mr. CONDIT. We have two men that have been sitting here. We appreciate very much. Maybe we can run through our questions to you pretty quick.

I would like to ask Mr. Singletary, do you keep any records or do you have any information on what types of crimes criminal aliens are being convicted of, drugs?

Mr. SINGLETARY. Yes, we have a pretty good data base. We could tell you exactly what they are in for. We think we got one of the best in the country. We could provide that.

I think, too, as we go along and as we want to develop a common language across, at least, corrections, I think it is very easy for us to take a look at those individuals who INS had placed detainees on, and they have warrants; that is a number that is hard, that is concrete, and that we really could use that.

So once they go through and have their identification for the warrant to hold that individual, and once they go through deportation hearings, we know for sure that those individuals are individuals they want to deport. And that is a very hard and fast number.

Mr. CONDIT. Also, the gentleman from INS reported that what they do when they deport people is that by the last day of their sentence they hope to have all the necessary hearings and everything done; is that more times than not that they have that done?

Mr. SINGLETARY. I can't speak for any other State, but Florida has had a good relationship in getting that done. We even have an agreement where based on their transportation schedule, to even let them out 10 days early, they pick them up based on their transportation schedule, to save and utilize resources. So they are getting them, taking them to Texas—and this is their trip, all those people within 10 days of their expiration of sentence, they can pick them up and take them with them.

Mr. CONDIT. So you have very few people who you release into the streets.

Mr. SINGLETARY. We have very few people released in the community.

Mr. CONDIT. Does the State of Florida ever make use of the Transfer Treaty Program whereby prisoners are returned to their native country to serve out their sentence? Has the Department of Justice taken any steps to keep you informed about this treaty program?

Mr. SINGLETARY. We haven't done very much in terms of the treaty program, even though there is an agreement. I am not aware of anything lately, that we have sent any of those individuals to any other country. It is there, and if we have, it hasn't been brought to my attention.

Mr. CONDIT. Major, I think you talked about the distance between the INS people. Would it be helpful if INS came to local facilities on a regular basis and helped you? I mean, is there a schedule for when they come, or is it just when you call?

Mr. ECKERT. It is pretty much on an as-needed basis. Generally, there is a delay of at least an hour driving time from Jacksonville. I think one thing that I would like to recommend is the possibility of enhancing training to local law enforcement agencies, whereby we would simply be able to recognize an illegal alien.

Sometimes in the field you have very limited contact, there are, of course, language barriers which present difficulties to us. If we in fact make an arrest, then of course they go into our jail and generally through intake identification procedures you might be able to identify someone as an illegal alien.

But in the general scheme of things, where a deputy sheriff or a police officer might contact an individual on the roadside in what we would call a "field contact," it would be very difficult to identify someone as an illegal alien.

Mr. CONDIT. Let me just follow up on that a little bit. So you are suggesting that law enforcement, have the responsibility or the authority to arrest someone—just because they are illegal?

Mr. ECKERT. If that is possible.

Now, I am not sure of all the criteria that is involved in making an arrest; I don't know what would establish probable cause. Cer-

tainly, we would like to work in partnership with the INS. But the fact of the matter is that if we come across an individual and he or she is an illegal alien, there is a tremendous time span. And of course with our limited resources, I have got a deputy off the road for 3 or 4 hours babysitting almost.

Mr. CONDIT. Well, this has gotten some discussion, particularly in my home State of California along the border, that the local police departments can identify and should be able to participate. My greatest fear is this, is that the Federal Government will do that and it will impact law enforcement to the point where, you know, they don't get reimbursed again for all the time that they do that; and as you already pointed out, the amount of training, additional training that they have. So it is something that has received some discussion. There is mixed reviews from law enforcement whether they want that responsibility or not.

Mr. ECKERT. Well, I can tell you that in the general scheme of things, I really don't want my deputies out looking for illegal aliens. They need to be addressing criminal issues. Now if, of course, in fact, an alien person is involved in a criminal act, we are going to address that.

Mr. CONDIT. Mr. Singletary.

Mr. SINGLETARY. The other part of that issue for field contacts, as we go through and as we set up this information system which includes illegal alien data, what we are doing right now in the State of Florida, our data base, we are loading into the 40 crime information centers; so, therefore, all of our probation data, all our prison data, all our release data and all of the 130,000 probationers, and also all the people who are released from prison will be in that data base.

Therefore, when you have a contact and you pick somebody up, when the officer dials it in, puts it in, then he knows whether he is one of our early releasees or whether he is probationary. And he really—before, that information was not out there in the NCIC, so now today we just put all our early releases out so therefore when you pick him up, if he is early release and he is involved in another crime, you can put him back in jail because he has violated the agreement.

And there is a possibility 1 day that if we get this system, that we could also load that in for the crime information system, when you call that, that information is current and we would know whether or not that individual is an illegal alien. That could be something that could help.

Also, the jails could use that same kind of information. If the immigration folks have it, if he is in our system, they could pull him up and know that that individual, based on an alien number, could be somebody we are looking for.

So when we talk about it, we also need to talk about jails. We have 35,000 people in jails in the State of Florida. We got 54 prison systems; we got some of the largest jails in the country. So the same thing you do for prisons, we need to remember that we need to do the same thing for jails, and also those people on probation and parole services.

And the other thing, while you are looking at it, is we have been told over the last year so that there may be a great influx of indi-

viduals coming to our shores; like several years ago, we don't have a good plan for the Immigration and Naturalization Service to take that function. The first 30 days of any influx in this State is going to have to be handled by the State of Florida, transportation, the whole 9 yards. So we need to have a plan here in the State of Florida if there is an influx coming, that somebody is able to take it from day one, as opposed to the State having to take the first 30, 45 days to pay for and use resources.

Mr. CONDIT. Just one followup question.

Are either of you gentleman familiar with a program that Kleinknecht mentioned this morning, this trial of a pilot program they are doing in Arizona?

Mr. ECKERT. I hadn't heard of that. Sounds like it would certainly help us a lot.

Mr. CONDIT. That is what I was getting at, whether that is something that would help the local law enforcement.

Mr. SINGLETON. And the other thing I always tell you when you start picking up these fugitives, they are going to need a jail cell someplace. So some point in time this also will have impact on local resources. And we need to be certain if you are going to have a sweep, that there are resources, also help to put these people someplace, in the local county jails, then they also should have some relief to house and feed and give medical care.

Mr. CONDIT. Absolutely.

Mrs. Thurman.

Mrs. THURMAN. Mr. Chairman, you took my question away from me.

Mr. CONDIT. I am sorry.

Mrs. THURMAN. I think that one of the things that we will suggest, or at least I will suggest to the Department, is to take a look at the information data you have. Not just from a standpoint of your information, but how it is set up so that it can be interfaced with what is already in place. I think that is important.

We can have all the computer technology we want, but if you can't interface with each other, then it does us no good at all.

I could get that information from you to pass on to the Department of Justice so we can identify those particular criminals for INS.

Mr. SINGLETON. That should be part of the pilot project, how we get our different computers to talk one to another, it should be part of the funding. And once you are able to do that, then it makes a very simple process.

Mrs. THURMAN. Mr. Secretary, what is the recidivism rate of the illegal undocumented aliens?

Mr. SINGLETON. We don't really have a number of—and I haven't looked at that. We could probably take a look at that, how many illegal aliens we have for a second time. I really don't know. Most of them are deported, or at least they go to INS.

Now, whether they enroll them from the institution, I really don't know. We know there are a lot of people who they deport, send them to Jamaica, and they are back in the country in a very short time; if you are talking about Jamaican ports, those kind of things. So we know we have a few, but we could get that information for you to find out how many people who were illegal, we sent

to INS, moved back for a second, third time, get that information for you.

[NOTE.—The information was not received.]

Mrs. THURMAN. Let me pick up on something you said. You said that they are deported, but then come back. Do you have any suggestions for us on how we might avoid that in the future?

Mr. SINGLETARY. With our borders and with these excesses, that is one of the most difficult problems I think we have to face. I really don't have a good suggestion today for that. The closer the countries are, the easier to get back. We are seeing a lot of those people who come—I don't have any idea for that.

Mrs. THURMAN. Are they coming back across our borders? The reason I ask is because there have been some conversations in Washington on how we might track, whether it is through fingerprinting or a card, the returning criminal alien.

Mr. SINGLETARY. No, some come over with the seasonal workers and they disappear into the population. They come in different, varying kinds of ways. We know we have picked up several two or three times and they deport them and they are back.

Mrs. THURMAN. Anything we can do to help, as I suggested to Mr. Towey, we will. As information becomes available to you, if there is a way that we can help you impact more positively what is happening in the Federal Government, we certainly would appreciate your input.

Mr. SINGLETARY. We will do that.

Thank you for having us.

Mr. CONDIT. Thank both you gentleman. You have been very patient with your time. You're a diplomat, both of you are diplomats.

Mr. SINGLETARY. I work for the Governor.

Mr. CONDIT. Thank you very much. We certainly appreciate it. You have been very helpful to the committee.

Mr. CONDIT. We are going to ask the next panel, panel four.

Representative Casey, you want to come up with this panel as well, we will take your testimony first.

Please remain standing.

Let the record indicate everyone said I will.

[Witness sworn.]

Mr. CONDIT. I am going to turn to my colleague from Florida to introduce this panel.

And, Mr. Casey, I know you have to get back, so we are going to allow you to do that.

Mrs. THURMAN. For the record, we had invited the chairman of Representative Casey's committee, Mr. Kelley Smith, who has done a great deal of work in the area of the corrections.

I understand, Representative Casey, that you also are a member of the Florida House Corrections Committee and have worked on some very important issues. We are glad to have you here today and look forward to your testimony. Hopefully, there will be some cooperation between all of us in trying to come up with a solution in dealing with this problem as it affects Florida.

Mr. CONDIT. Representative Casey.

**STATEMENT OF ROBERT CASEY, MEMBER, FLORIDA HOUSE
OF REPRESENTATIVES, CORRECTIONS COMMITTEE**

Mr. CASEY. Thank you, Mr. Chairman, and the committee for coming to this district to be amongst the people and to hold a town hall meeting with us.

I think you have correctly identified the three pertinent issues: Education, health care, and criminal justice. These problems aren't unique to Florida as a State, but they are universal in America. We have a problem providing the services to our own citizens in all the States in our land.

I was born, bred, raised in Paducah, KY. That is the home of former Senate Majority Leader Albert Markey who ushered through all of FDR's new deal legislation, and helped put beans and potatoes on my table.

But Harry Truman had a slogan that we all know and appreciate, and that was "the buck stops here." In Florida, the buck has stopped at our county governments, for the most part.

The State has been able to provide some funding, but for the most part, it has been a county issue. In Florida, we have about nine zeros after our budget. In the national budget, it is probably around 15 or 17, or something of that order. Federally, we are able to print money. At the States, we are able to print bonds. And a lot of times that is the way we have to fund some of our programs.

I do serve on the Corrections Committee, and I just totaled up some of the figures here. Currently, the house and the senate at the State level have good juvenile justice criminal packages, but we differ in the funding and in the amount of the funding. If we had that \$324 million that we have had to pay out of State funds for Federal issues, we wouldn't have a problem funding that particular issue.

I think the second most important thing in Florida is education, and currently the Federal Government is paying about 3 percent of the cost of illegal immigrant education in Florida. We are required to teach in a lot of native languages, and we tried to meet that mandate, but this should be a home and family function so that we avoid the Canadian problem of having two separate languages.

Currently, the Florida school boards are suing the State legislature for inadequate funding of education. I don't think legislative bodies should put themselves in a position where they have to be sued to solve the problems confronting our society. And I am sorry that State of Florida feels we have to do likewise on this issue, because we know a lot of funds are going to be spent in providing legal talent for both sides of the argument.

Lastly, let me just say a word about health care reform. I believe in the triple A health care policy.

I am a family physician in background, a graduate of the College of Medicine here in Gainesville, but I believe health care should be available 100 percent, that which is available should be 100 percent accessible, and that which is available and accessible should be 100 percent affordable, not only to government and to other people who pay insurance premiums, but also to the providers of those services.

I currently—last year, I agreed with President Clinton. I believe that the cigarette tax is a health care issue. It is a tax-equity issue in the State of Florida, especially, I think, at the Federal level.

Last year, I had a bill to put \$1 per pack of cigarettes excise tax. Like President Clinton, I modified it this year and it is only 25 cents, and tomorrow—and I hope there are no tobacco lobbyists here—I am going to try to amend a bill.

As Senator Thurman will recall in the last 2 weeks, every session you get to try to get your bills through by attaching them on as a friendly amendment. So I hope to get that attached to a bill tomorrow, that will raise \$274 million the first year.

It will help some of our smokers quit smoking. It will help decrease the teen involvement in cigarette smoking by approximately 80 percent. I studied the California model on this and I used their figures in getting material for that bill. So I hope that both of you will support President Clinton in his health reform efforts and help us help the people of Florida by taxing cigarettes to help fund part of the program.

Thank you very much.

Mr. CONDIT. Thank you, Representative Casey. We really appreciate you being here this morning, and your help to the committee.

Mrs. Thurman.

Mrs. THURMAN. Representative Casey, I know you have to leave since you are in the middle of a session. Do you have any different figures than what Secretary Singletary has said?

Mr. CASEY. No, I am not aware. I rely upon him. We worked with him very closely as a committee. He is a very reliable and honest person.

Mrs. THURMAN. We appreciate you being here today. Good luck.

Mr. CASEY. Thank you very much.

Mr. CONDIT. Thank you, sir. We appreciate it.

Mrs. Thurman, do you want to introduce the next witness on the list?

Mr. Arnett is the next person.

Mrs. THURMAN. Dave Arnett is from the Dade County schools. We know from the testimony of the Governor, the impact of illegal immigration on Dade County. I am sure that he can share with us some of the nightmares that they have had not only with the funding issues but also the language differences which has had an impact in Dade County.

Mr. Arnett, we are very pleased to have you here. A few years ago, 14,000 Nicaraguans came into the State of Florida, and displaced many of our State dollars targeted for education. It was even a bigger impact for Dade County. It has been a burden on you as well as the entire student population.

However, we are very pleased that you are here today and certainly look forward to your testimony as it relates to Dade County schools and the impact that you had in having to deal with this over the last several years.

Thank you for being here.

STATEMENT OF DAVID B. ARNETT, DISTRICT DIRECTOR, LEGISLATIVE AND LABOR RELATIONS, PROFESSIONALIZATION AND POLICY DEVELOPMENT, DADE COUNTY SCHOOLS

Mr. ARNETT. Thank you, Representative Thurman, and Mr. Chairman and members of the subcommittee. I am pleased that your memory is so clear—that someone who remembers from the State legislature the struggles that you had is now in Washington and can assist us in that arena as well.

And thank you on behalf of the Dade County School Board and our Superintendent, Mr. Visiedo, for the opportunity to speak to the subcommittee today.

I would like you to understand how important your visit here is. I want you to consider the following demographic characteristics of the Dade County schools, which is the Nation's fourth largest school system.

As of February 28, and that is a date we use because we publish a monthly immigration report—copies of which I have left here—as of the end of last month, our kindergarten through grade 12 student population included more than 76,000 foreign-born students, which represents more than 25 percent of our total student population.

And you are absolutely right, Representative Thurman, probably the average American hearing that would assume that the highest number among those 76,000 would be either Cuban or Haitian. The fact is that the highest number of foreign-born students in the Dade County schools are Nicaraguan. Of our 300 schools, 38 have 500 or more foreign-born students, of which 17 schools have more than 1,000 foreign-born students, and 3 schools have more than 2,000 foreign-born students.

This is not a new or even recent phenomenon to this school district. An average of 952 foreign-born students have enrolled each month for the 48-month period which just ended on February 28. And a total of 7,078 foreign-born students have enrolled since just last July. So not only is this a trend that encompasses 4 years, it is a trend that continues as we speak today.

Our district has a proud multicultural history of welcoming these opportunities and meeting their needs to the best of our ability, which dates back as early as far as the earliest Cuban airlift in 1961.

However, the reason I am sharing those numbers with you today is to provide you with some understanding of the costs we incur to provide them with educational programs and facilities. For each foreign-born student, the Dade County public schools spends more than \$4,000, for a total of more than \$300 million per year.

Of this amount, and I believe someone else made—I think the Governor used this figure as well—of this amount, the Federal Government pays approximately 3 percent, while State and local taxpayers pay the other 97 percent.

This represents only the annual operating expenses of the school system. This does not encompass the capital outlay costs to the school system; and that is just as overwhelming. Housing the 76,000 foreign-born students requires—and these numbers are based on average numbers of students per school—those 76,000 for-

eign-born students represent 42 elementary schools, 10 middle schools, and 7 senior high schools.

A school district that size alone would be larger than most school districts in the entire United States. This 48-month expenditure came after passage of the \$980 million school bond referendum in Dade County, which in 1988 was already approximately 80 percent attributable to the growth in foreign-born students we had at that time.

But even after that \$980 million had been spent, our schools continued to receive the students that I have just mentioned to you; again, largely due to the continuing influx of foreign-born students. So these are extraordinary costs and they fall as heavily on public schools as they do on any other social service agency.

There is Federal funding, but it is limited to several very small pots of dollars. Federal funding for entrants was begun more than 12 years ago to address the needs of students arriving through the Mariel and Haitian boatlifts.

We currently receive, as does Jackson Memorial, approximately \$8.3 million a year to offset the local cost of educating that shrinking group, because it is a very limited definition of eligibility. And those Cuban and Haitian students who came in 1981, represent fewer in number. It is a line item budget in the Federal budget and it is being looked at carefully every year, especially in these deficit reduction times.

It is the local school board's belief that our schools should be able to use this money, this "targeted assistance," as it is called, to serve all foreign-born students, regardless of their immigration status. And then we tracked carefully the arrival of all foreign-born students for the past 6 to 7 years when we began experiencing a dramatic influx from Central and South America, predominantly from Nicaragua. And regarding the \$58.3 million in targeted assistance, it is my understanding the funding to continue this assistance but not the enabling language, is now in both the House and Senate immigration budgets. And we are taking all steps we can take to try to ensure that it stays there.

Another pot of dollars is Emergency Immigrant Funding, and there is currently a—just to bring you a status report from last week, which you are probably already aware of—there was a funding increase this year approved by the House last week, from \$40 to \$75 million, which would represent approximately another \$500,000 in funding to the Dade County schools. The only limitation that we find difficult regarding this money which we can use for all foreign-born students, is a 36-month limitation on student eligibility for this funding.

There are some students who require longer than 36 months to be fully mainstreamed from, first, and most dramatic and severe programmatic needs, until they are fully mainstreamed in our regular class program. So because students arrive not just deficient in English, but sometimes deficient in their native language and with little or no educational background, in poverty, and all too frequently with profound emotional and social problems for which public schools are the first point of service impact, we are seeking to expand this 36-month window of opportunity for access to these funds.

Finally, the META consent agreement, which is part of the—which is part of what precipitated the Governor's lawsuit, requires extensive training for all teachers working with limited English proficient students. We have pretty much overcome that burden and have paid for that cost, but now the META consent agreement precludes us from requiring future foreign-born students to provide INS documentation when registering for school.

Over time, therefore, we will be unable to accurately distinguish between refugees, immigrants, undocumented students, visa students, et cetera. So in terms of being able to provide that kind of information to this committee, we only know now, we are only required to ask whether students are immigrants or nonimmigrants.

Finally, it is critical that whatever Federal assistance we receive recognizes and reflects that all foreign-born students must be educated if they are to be productive citizens, and that it is only right that the Federal Government pay a fair share of that cost since those students are here as a result of Federal immigration policy.

So I thank you again for the opportunity to share this information with you and for your interest in our educational programs and services.

[The prepared statement of Mr. Arnett follows:]

OFFICIAL TESTIMONY
MR. DAVID B. ARNETT
DADE COUNTY PUBLIC SCHOOLS
U. S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON INFORMATION,
JUSTICE, TRANSPORTATION AND
AGRICULTURE OF THE COMMITTEE ON
GOVERNMENT OPERATIONS

MARCH 28, 1994

SANTA FE COMMUNITY COLLEGE

BUILDING R -- ROOM 001

3000 NW 83RD STREET

GAINESVILLE, FLORIDA

9:30 A.M.-1:30 P.M.

- =====
- MADAME CHAIRPERSON AND MEMBERS OF THE SUBCOMMITTEE, ON BEHALF OF THE DADE COUNTY SCHOOL BOARD AND OUR SUPERINTENDENT, MR. OCTAVIO J. VISIEDO, I WOULD LIKE TO THANK THE COMMITTEE FOR INVITING ME TO THIS MOST IMPORTANT HEARING.

 - I'D LIKE YOU EACH TO UNDERSTAND HOW IMPORTANT YOUR VISIT TO OUR STATE IS. CONSIDER THE FOLLOWING DEMOGRAPHIC CHARACTERISTICS OF THE DADE COUNTY PUBLIC SCHOOLS -- THE NATION'S FOURTH

LARGEST PUBLIC SCHOOL SYSTEM:

- AS OF FEBRUARY 28, 1994, OUR KINDERGARTEN THROUGH GRADE 12 STUDENT POPULATION INCLUDES MORE THAN 76,000 FOREIGN-BORN STUDENTS, OR MORE THAN 25 PERCENT OF OUR TOTAL STUDENT POPULATION.
- THIRTY-EIGHT OF OUR 300 SCHOOLS HAVE 500 OR MORE FOREIGN-BORN STUDENTS, OF WHICH 17 SCHOOLS HAVE MORE THAN 1,000 FOREIGN-BORN STUDENTS, AND THREE SCHOOLS HAVE MORE THAN 2,000 FOREIGN-BORN STUDENTS.
- THIS IS NOT A NEW OR EVEN RECENT PHENOMENON TO THIS SCHOOL DISTRICT. AN AVERAGE OF 952 FOREIGN-BORN STUDENTS HAVE ENROLLED EACH MONTH FOR THE 48-MONTH PERIOD ENDING

FEBRUARY 28TH, AND A TOTAL OF 7,078 FOREIGN-BORN STUDENTS HAVE ENROLLED JUST SINCE LAST JULY.

- THIS DISTRICT HAS A PROUD MULTICULTURAL HISTORY OF WELCOMING THESE STUDENTS AND MEETING THEIR NEEDS TO THE BEST OF ITS ABILITY. HOWEVER, THE REASON I AM SHARING THESE NUMBERS WITH YOU TODAY IS TO PROVIDE YOU WITH SOME UNDERSTANDING OF THE COSTS WE INCUR TO PROVIDE THEM WITH EDUCATIONAL PROGRAMS AND FACILITIES.
- FOR EACH FOREIGN-BORN STUDENT, THE DADE COUNTY PUBLIC SCHOOLS SPENDS MORE THAN \$4,000, OR A TOTAL OF MORE THAN \$300 MILLION PER YEAR. OF THIS AMOUNT, THE FEDERAL GOVERNMENT PAYS APPROXIMATELY THREE PERCENT, WHILE STATE AND LOCAL TAXPAYERS PAY THE OTHER 97 PERCENT. THIS

REPRESENTS ONLY THE ANNUAL OPERATING EXPENDITURES OF THE SCHOOL SYSTEM.

- JUST AS OVERWHELMING, THOUGH, ARE THE UNREIMBURSED COSTS OF HOUSING THESE STUDENTS. HOUSING THE 76,000 FOREIGN-BORN STUDENTS REQUIRES APPROXIMATELY 42 ELEMENTARY SCHOOLS, 10 MIDDLE SCHOOLS, AND SEVEN SENIOR HIGH SCHOOLS. A SCHOOL DISTRICT THAT SIZE WOULD BE LARGER THAN MOST IN THE ENTIRE UNITED STATES.
- THE NEED FOR THE \$980 MILLION BOND REFERENDUM PASSED BY THE VOTERS OF DADE COUNTY IN 1988 IS APPROXIMATELY 80 PERCENT ATTRIBUTABLE TO THE 64,000 FOREIGN-BORN STUDENTS IN THE SCHOOL SYSTEM AT THAT TIME.
- BUT EVEN AFTER THAT \$980 MILLION HAS BEEN SPENT,

OUR SCHOOLS WILL STILL BE OVERCROWDED, AGAIN
LARGELY DUE TO THE CONTINUING INFLUX OF FOREIGN-
BORN STUDENTS.

- THE EXTRAORDINARY COSTS INHERENT IN MEETING THE NEEDS OF REFUGEE AND IMMIGRANT CHILDREN FALL AS HEAVILY ON OUR PUBLIC SCHOOLS AS THEY DO ON ANY OTHER SOCIAL SERVICE AGENCY; THEREFORE, IT IS CRITICAL THAT THIS COMMITTEE UNDERSTAND THE MAGNITUDE OF THE SACRIFICES THIS COMMUNITY HAS BEEN FORCED TO MAKE BECAUSE IT HAS BORNE THE BRUNT OF THE FEDERAL GOVERNMENT'S FAILURE TO PROVIDE ADEQUATE FUNDING TO MITIGATE THE SEVERE FINANCIAL IMPACT ON THIS COMMUNITY.
- FEDERAL FUNDING FOR "ENTRANTS" WAS BEGUN MORE THAN 12 YEARS AGO TO ADDRESS THE NEEDS OF STUDENTS ARRIVING THROUGH THE MARIEL AND HAITIAN

BOATLIFTS. WE CURRENTLY RECEIVE APPROXIMATELY \$8.3 MILLION A YEAR TO OFFSET THE LOCAL COST OF EDUCATING THIS SHRINKING GROUP. IT IS THE SCHOOL BOARD'S BELIEF THAT THE DADE COUNTY PUBLIC SCHOOLS SHOULD BE ABLE TO USE TARGETED ASSISTANCE FUNDS TO SERVE ALL FOREIGN-BORN STUDENTS, REGARDLESS OF THEIR IMMIGRATION STATUS.

- EVEN THIS CONCESSION WOULD BE PITIFULLY INADEQUATE, AS IT WOULD ONLY MAINTAIN THE CURRENT FEDERAL CONTRIBUTION WHICH, AS PREVIOUSLY STATED, IS ONLY THREE PERCENT OF THE COST.
- WE HAVE TRACKED CAREFULLY THE ARRIVAL OF ALL FOREIGN-BORN STUDENTS, ESPECIALLY FOR THE PAST SIX TO SEVEN YEARS, WHEN WE BEGAN EXPERIENCING A DRAMATIC INFLUX IN FOREIGN-BORN STUDENTS, BOTH

IMMIGRANTS AND NON-IMMIGRANTS, FROM THROUGHOUT CENTRAL AND SOUTH AMERICA, PREDOMINANTLY FROM NICARAGUA. OUR REPORTS, WHICH HAVE BEEN PREPARED MONTHLY AND SHARED WITH OUR STATE AND CONGRESSIONAL DELEGATIONS, SHOW THAT THE INFLUX CONTINUES AS WE SPEAK.

- REGARDING THE \$8.3 MILLION IN TARGETED ASSISTANCE FEDERAL FUNDING, IT IS MY UNDERSTANDING THAT THE FUNDING TO CONTINUE THIS ASSISTANCE, BUT NOT THE ENABLING LANGUAGE, IS IN BOTH THE HOUSE AND SENATE IMMIGRATION BUDGETS.
- ANOTHER ISSUE I WISH TO ADDRESS IS THE 36-MONTH LIMITATION ON STUDENT ELIGIBILITY FOR EMERGENCY IMMIGRANT FUNDING. TWENTY YEARS AGO, WHEN THE VAST MAJORITY OF NEWLY-ARRIVED FOREIGN-BORN STUDENTS WERE BETTER PREPARED FOR SCHOOL, THEIR

ADJUSTMENT TO OUR SCHOOLS WAS PRIMARILY A FUNCTION OF IMPROVING THEIR LIMITED ENGLISH PROFICIENCY (LEP). HOWEVER, MORE RECENTLY, FOREIGN-BORN STUDENTS ARRIVE NOT JUST DEFICIENT IN ENGLISH, BUT WITH LITTLE OR NO EDUCATIONAL BACKGROUND; IN POVERTY; AND ALL TOO FREQUENTLY, WITH PROFOUND EMOTIONAL AND SOCIAL PROBLEMS FOR WHICH PUBLIC SCHOOLS ARE THE FIRST POINT OF SERVICE IMPACT.

- THEREFORE, WE ARE SEEKING TO EXPAND THIS 36-MONTH WINDOW OF OPPORTUNITY FOR ACCESS TO THE FUNDS NECESSARY FOR MEETING THESE STUDENTS' NEEDS.

- ADDITIONALLY, THE META CONSENT AGREEMENT REQUIREMENTS FOR EXTENSIVE TRAINING FOR ALL TEACHERS WORKING WITH LEP STUDENTS, WHILE

DESIRABLE AND NECESSARY FOR MEETING OUR STUDENTS' NEEDS, IS YET ANOTHER FINANCIAL BURDEN ON THIS SCHOOL DISTRICT BROUGHT ABOUT BY FEDERAL IMMIGRATION POLICY.

- FINALLY, THE RECENT META CONSENT AGREEMENT WITH THE STATE PRECLUDES US FROM REQUIRING FUTURE FOREIGN-BORN STUDENTS TO PROVIDE THE IMMIGRATION AND NATURALIZATION SERVICE DOCUMENTATION WHEN REGISTERING FOR SCHOOL. OVER TIME, THEREFORE, WE WILL BE UNABLE TO ACCURATELY DISTINGUISH BETWEEN REFUGEES, IMMIGRANTS, UNDOCUMENTED STUDENTS, VISA STUDENTS, ETC.
- IT IS CRITICAL, THEREFORE, THAT WHATEVER FEDERAL ASSISTANCE WE RECEIVE RECOGNIZES AND REFLECTS THAT ALL FOREIGN-BORN STUDENTS MUST BE EDUCATED IF THEY ARE TO BE PRODUCTIVE CITIZENS. IT IS ONLY

RIGHT THAT THE FEDERAL GOVERNMENT PAY A FAIR SHARE OF THE COST, SINCE THOSE STUDENTS ARE HERE AS A RESULT OF FEDERAL IMMIGRATION POLICY.

- THANK YOU AGAIN FOR THE OPPORTUNITY TO SHARE MY DISTRICT'S PERSPECTIVES WITH YOU.

**IMMIGRATION IMPACT
BRIEFING PACKAGE**

**Dade County Public Schools
Miami, Florida**



February 28, 1994

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

- FACTS:**
- DADE COUNTY PUBLIC SCHOOLS' K-12 STUDENT POPULATION WAS 305,604 (AS OF 2/28/94).
 - MORE THAN ONE OF EVERY FOUR STUDENTS (76,103) OR 25 PERCENT WERE BORN OUTSIDE THE UNITED STATES.
 - THIRTY-EIGHT SCHOOLS HAVE 500 OR MORE FOREIGN-BORN STUDENTS.
 - SEVENTEEN SCHOOLS HAVE MORE THAN 1,000 FOREIGN-BORN STUDENTS.
 - THREE SCHOOLS HAVE MORE THAN 2,000 FOREIGN-BORN STUDENTS.
 - SINCE JULY 1993, A TOTAL OF 7,078 FOREIGN-BORN STUDENTS HAVE ENTERED.
 - AN AVERAGE OF 952 FOREIGN-BORN STUDENTS HAVE ENROLLED EACH MONTH FOR THE 36-MONTH PERIOD ENDING FEBRUARY 28, 1994.
 - THE 48-MONTH AVERAGE IS 1,016 STUDENTS PER MONTH.
 - FOR EACH FOREIGN-BORN REFUGEE STUDENT, THE DISTRICT INCURS \$662 UNREIMBURSED COST.
 - THE IMMEDIATE COST OF HOUSING FOREIGN-BORN STUDENTS IS ESTIMATED TO BE \$122 MILLION.
 - THE LONG-RANGE COST OF HOUSING FOREIGN-BORN STUDENTS IS ESTIMATED TO BE \$589 MILLION.

FOR FURTHER INFORMATION, CONTACT
THOMAS A. CERRA
LEGISLATIVE AND LABOR RELATIONS,
PROFESSIONALIZATION, AND POLICY DEVELOPMENT
(305) 995-2383
FAX: (305) 995-2375

**STUDENT
POPULATION
DATA**

**ACTIVE STUDENTS BORN IN A FOREIGN COUNTRY
INCLUDING U.S. CITIZENS**
122 COUNTRIES REPRESENTED
ADDITIONS AND CANCELLATIONS
FEBRUARY 28, 1984
94 MAR 10 PM 2:17

COUNTRY	TOTAL
ALGERIA	5
ANDORRA	1
ANGUILLA	1
ANTIGUA AND BARBUDA	61
ARGENTINA	966
AUSTRALIA	17
AUSTRIA	7
BAHAMAS, THE	2,393
BAHRAM	7
BANGLADESH	25
BARBADOS	32
BELGIUM	16
BELIZE	83
BOLIVIA	385
BRAZIL	1,113
BULGARIA	16
CAMEROON	1
CANADA	636
CHILE	823
CHINA, PEOPLE'S REPUBLIC OF	195
COLOMBIA	5,174
CONGO	2
COSTA RICA	813
CUBA	11,933
CYPRUS	1
CZECHOSLOVAKIA	10
DENMARK	6
DOMINICA	70
DOMINICAN REPUBLIC	3,915

ECUADOR	914
EGYPT	17
EL SALVADOR	845
ESTONIA	1
ETHIOPIA	11
FINLAND	5
FRANCE	216
GABON	2
GAMBIA	1
GERMANY	544
GHANA	3
GREECE	18
GRENADA	36
GUADELOUPE	6
GUATEMALA	1,186
GUYANA	279
HAITI	7,014
HONDURAS	3,566
HUNGARY	12
ICELAND	4
INDIA	130
INDONESIA	5
IRAN	62
IRAQ	3
IRELAND, REPUBLIC OF	8
ISRAEL	216
ITALY	71
IVORY COAST	6
JAMAICA	3,764
JAPAN	87
JORDAN	22
KAMPUCHEA	2
KENYA	9
KOREA, REPUBLIC OF	157
KUWAIT	15

LAOS	16
LATVIA	4
LEBANON	36
LIBERIA	8
LIBYA	3
MALAYSIA	6
MEXICO	1,865
MOROCCO	3
MOZAMBIQUE	2
NEPAL	1
NETHERLANDS, THE	100
NEW ZEALAND	1
NICARAGUA	15,559
NIGERIA	31
NORWAY	5
PAKISTAN	327
PANAMA	988
PARAGUAY	41
PERU	3,116
PHILIPPINES	303
POLAND	41
PORTUGAL	37
ROMANIA	20
SAINT LUCIA	52
SAINT CHRISTOPHER-NEVIS	92
SAINT VINCENT AND THE GRENADINES	17
SAUDI ARABIA	36
SENEGAL	2
SEYCHELLES	1
SIERRA LEONE	5
SINGAPORE	5
SOUTH AFRICA, REPUBLIC OF	44
SPAIN	483
SRI LANKA	2
SUDAN	3

SURINAME	87
SWEDEN	20
SWITZERLAND	29
SYRIA	9
TAIWAN	64
TANZANIA	7
THAILAND	47
TOGO	3
TRINIDAD AND TOBAGO	785
TUNISIA	1
TURKEY	10
UNION OF SOVIET SOCIALIST REPUBLICS	246
UNITED ARAB EMIRATES	1
UNITED KINGDOM	623
URUGUAY	110
VENEZUELA	2,704
VIETNAM	114
WESTERN SAMOA	1
YUGOSLAVIA	20
ZAIRE	8
ZAMBIA	2
ZIMBABWE	3
TOTAL ACTIVE STUDENTS BORN IN A FOREIGN COUNTRY	76,103



DATA COLLECTED FROM
PRODUCT #T0500P29-1

DIVISION OF STUDENT SERVICES
AND ATTENDANCE
MARCH 8, 1994

ACTIVE STUDENTS BORN IN CUBA, HAITI AND NICARAGUA
as of FEBRUARY 28, 1994

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
6	0041	AIR BASE EL.	258-3676	0	1	0
4	0081	ALLAPATTAH EL.	635-0873	0	14	29
3	0101	ARCOLA LAKE EL.	836-2820	1	11	13
4	0121	AUBURNDALE EL.	445-3587	70	0	95
6	0161	AVOCADO EL.	247-4942	1	12	1
3	0201	BANYAN EL.	221-4011	17	0	19
2	0241	BAY HARBOR EL.	865-7912	3	0	4
6	0261	BEL-AIRE EL.	233-5401	1	6	5
5	0271	BENT TREE EL.	221-0461	10	1	45
2	0321	BISCAYNE EL.	868-7727	19	3	21
2	0361	BISCAYNE GARDENS EL.	681-5721	0	42	'5
3	0401	BLANTON, VAN E. EL.	696-9241	0	44	9
5	0441	BLUE LAKES EL.	271-7411	3	0	3
5	0451	ASHE, BOWMAN FOSTER EL.	386-6667	13	7	43
1	0461	BRENTWOOD EL.	624-2657	0	3	6
1	0481	BRIGHT, JAMES H. EL.	885-1683	113	1	111
3	0521	BROADDOOR EL.	691-0861	7	3	56
2	0561	BRYAN, WILLIAM JENNINGS EL.	891-0602	3	65	17
4	0601	BUENA VISTA EL.	573-8181	0	4	20
1	0641	BUNCHE PARK EL.	621-1469	2	1	2
6	0651	CAMPBELL DRIVE EL.	245-0270	7	7	9
6	0661	CARIBBEAN EL.	233-7131	4	2	21

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
6	0671	CALUSA EL.	385-0589	1	8	6
1	0681	CAROL CITY EL.	621-0509	2	2	19
4	0721	CARVER, G. W. EL.	443-5286	8	0	11
2	0761	FIENBERG, LEROY D. EL.	531-0419	17	7	50
6	0771	CHAPMAN, WILLIAM A. EL.	245-1055	0	3	2
4	0801	CITRUS GROVE EL.	642-4141	55	1	238
6	0831	PEPPER, CLAUDE EL.	386-5244	4	4	6
4	0841	COCONUT GROVE EL.	445-7876	1	0	5
5	0861	COLONIAL DRIVE EL.	238-2392	0	5	1
4	0881	COMSTOCK EL.	635-7341	15	5	110
8	0921	COOPER, NEVA KING EDUC. CTR.	247-4307	1	0	1
4	0961	CORAL GABLES EL.	448-1731	11	0	18
3	1001	CORAL PARK EL.	221-5632	37	1	38
5	1041	CORAL REEF EL.	235-1464	1	1	6
5	1081	CORAL TERRACE EL.	262-8300	39	0	24
4	1121	CORAL WAY EL.	854-0515	52	0	129
2	1161	CRESTVIEW EL.	624-1495	0	4	1
6	1241	CUTLER RIDGE EL.	235-4611	0	0	3
5	1281	CYPRESS EL.	271-1611	2	0	4
5	1331	DEVON AIRE EL.	279-6710	0	1	11
4	1361	DOUGLASS EL.	371-4687	20	0	259
5	1371	DOUGLAS, MARJORIE STONEHEN EL.	226-4356	37	0	178
3	1401	DREW, CHARLES R. EL.	691-8021	2	8	16
4	1441	DUNBAR, EL.	573-2344	4	0	46
1	1481	DUPUIS, JOHN G. EL.	821-6361	62	0	39

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
1	1521	EARHART, AMELIA EL.	688-9619	34	1	13
3	1561	EARLINGTON HEIGHTS EL.	635-7505	9	3	56
4	1601	EDISON PARK EL.	758-3658	0	52	0
5	1641	EMERSON EL.	264-5757	25	0	15
2	1681	EVANS, LILLIE C. EL.	691-4973	0	3	3
3	1721	EVERGLADES EL.	254-4154	26	0	40
5	1761	FAIRCHILD, DAVID EL.	665-5483	2	1	13
4	1801	FAIRLAWN EL.	261-8880	49	0	36
5	1841	FLAGAMI EL.	261-2031	17	0	14
4	1881	FLAGLER, HENRY M. EL.	443-2529	70	0	82
1	1921	FLAMINGO EL.	691-5531	96	2	59
3	1961	FLORAL HEIGHTS EL.	635-8456	0	0	0
6	2001	FLORIDA CITY EL.	247-4676	2	13	1
5	2021	FLOYD, GLORIA EL.	255-3934	2	5	3
3	2041	FRANKLIN, BENJAMIN EL.	681-3547	0	55	4
2	2081	FULFORD EL.	949-3425	1	31	3
1	2111	HIALEAH GARDENS EL	822-7108	0	0	0
1	2161	GOLDEN GLADES EL.	624-9641	0	3	0
1	2181	GOOD, JOELLA EL.	625-2008	9	6	1
2	2241	GRATIGNY EL.	681-6685	1	93	18
5	2261	GREENGLADE EL.	223-5330	18	0	20
2	2281	GREYNOLDS PARK EL.	949-2129	1	18	4
6	2321	GULFSTREAM EL.	235-6811	6	1	7
3	2331	HADLEY, CHARLES R. EL.	261-3453	29	0	183
5	2341	HALL, JOE EL.	223-9823	34	0	32

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
3	2361	HIALEAH EL.	888-6709	74	1	58
2	2401	HIBISCUS EL.	652-3018	0	3	9
2	2441	HIGHLAND OAKS EL	931-1770	2	0	2
3	2501	HOLMES EL.	836-3421	0	2	0
6	2521	HOOVER, OLIVER EL.	385-4382	6	6	17
4	2531	CROWDER, THEA EL.	836-0012	0	11	0
5	2541	HOWARD DRIVE EL.	235-1412	0	2	3
2	2581	IVES, MADIE EL.	651-3155	0	6	5
1	2621	JOHNSON, J.W. EL.	883-1357	19	0	5
5	2641	KENDALE EL.	274-2735	2	1	28
6	2651	KENDALE LAKES EL.	385-2575	6	2	16
4	2661	KENSINGTON PARK EL.	649-2811	65	0	129
5	2701	KENWOOD EL.	271-5061	4	5	15
4	2741	KEY BISCAYNE EL.	361-5418	1	0	3
3	2761	KING, MARTIN LUTHER PRIMARY	836-0928	0	1	1
4	2781	KINLOCH PARK EL	445-1351	44	0	166
1	2801	LAKE STEVENS EL.	625-6536	8	0	16
3	2821	LAKEVIEW EL.	757-1535	3	37	22
8	2861	LEE CTR./YOUTH OPP. SCHOOL-SO.	661-1551	6	1	13
5	2881	LEEWOOD EL.	233-7430	0	0	1
6	2901	LEISURE CITY EL.	247-5431	2	0	4
6	2941	LEWIS, A. L. EL.	247-3933	0	16	0
3	2981	LIBERTY CITY EL.	691-8532	0	0	0
4	3021	LITTLE RIVER EL.	754-7531	1	39	3
3	3041	LORAH PARK EL.	633-1424	6	0	54

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
4	3051	L'OUVERTURE, TOUSSAINT EL.	758-2600	0	91	4
5	3061	LUDLAM EL.	667-5551	3	0	5
5	3101	MARTIN, FRANK C. EL.	238-3688	0	0	5
1	3141	MEADOWLANE EL.	822-0660	99	0	50
3	3181	MELROSE EL.	635-8676	13	1	122
1	3241	MIAMI GARDENS EL.	625-5321	7	1	30
6	3261	MIAMI HEIGHTS EL.	238-3662	14	0	5
1	3281	MIAMI LAKES EL.	822-7757	6	0	2
3	3301	MIAMI PARK EL.	691-6361	5	32	42
4	3341	MIAMI SHORES EL.	758-5555	0	44	6
3	3381	MIAMI SPRINGS EL.	888-4558	4	1	33
1	3421	MILAM, M. A. EL.	822-0301	88	0	79
4	3431	MILLER, PHYLLIS RUTH EL.	642-7555	0	63	6
4	3461	MIRAMAR EL.	576-9441	0	14	29
4	3501	MORNINGSIDE EL.	758-6741	2	50	17
5	3541	MOTON, R. R. EL.	235-3612	0	0	3
2	3581	MYRTLE GROVE EL.	624-8431	1	5	0
6	3621	NARANJA EL.	258-3401	3	3	6
2	3661	NATURAL BRIDGE EL.	891-8649	3	51	3
2	3701	NORLAND EL.	652-6074	0	11	1
2	3741	NORTH BEACH EL.	531-7666	4	1	7
1	3781	NORTH CAROL CITY EL.	624-2615	0	1	0
1	3821	NORTH COUNTY EL.	624-9648	0	0	0
1	3861	NORTH GLADE EL.	624-3608	4	0	17
1	3901	NORTH HIALEAH EL.	681-4611	59	0	25

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
2	3941	NORTH MIAMI EL.	949-6156	2	107	11
1	3981	NORTH TWIN LAKES EL.	822-0721	100	0	107
2	4001	NORMWOOD EL.	653-0068	0	1	0
2	4021	OAK GROVE EL.	945-1511	2	33	10
2	4061	OJUS EL.	931-4881	0	1	1
3	4071	OLINDA EL.	633-0308	1	0	1
5	4091	OLYMPIA HEIGHTS EL.	221-3821	34	0	25
1	4121	OPA-LOCKA EL.	688-4605	8	10	29
3	4171	ORCHARD VILLA EL.	754-0607	0	10	0
5	4221	PALMETTO EL.	238-4306	1	0	6
1	4241	PALM LAKES EL.	823-6970	57	0	87
1	4261	PALM SPRINGS EL.	822-0911	75	0	36
1	4281	PALM SPRINGS NORTH EL.	821-4631	9	3	6
2	4301	PARKVIEW EL.	625-1591	0	2	1
2	4341	PARKWAY EL.	653-0066	0	5	9
5	4381	PERRINE EL.	215-2442	0	1	2
6	4391	IRVING & BEATRICE PESKOE EL.	246-5934	8	2	5
4	4401	PHARR, KELSEY L. E)	633-0429	14	7	115
5	4421	PINECREST EL.	667-5579	1	0	26
6	4441	PINE LAKE EL.	233-7018	2	0	7
6	4461	PINE VILLA EL.	258-5366	0	0	0
1	4501	POINCIANA PARK EL.	691-5640	0	2	1
6	4511	PORTER, DR. GILBERT L.	382-0792	0	0	10
1	4541	RAINBOW PARK EL.	688-4631	1	1	5
6	4581	REDLAND EL.	247-8141	6	0	8

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
6	4611	REDONDO EL.	241-5943	4	7	3
6	4651	RICHMOND EL.	238-5194	2	3	9
4	4681	RIVERSIDE EL.	547-1328	36	2	465
5	4691	ROBERTS, JANE S. EL.	220-8254	3	2	22
3	4721	ROCKWAY EL.	221-1192	32	0	10
5	4741	ROYAL GREEN EL.	221-4452	27	0	43
5	4761	ROYAL PALM EL.	221-7961	22	0	20
2	4801	SABAL PALM EL.	651-2411	1	24	1
4	4841	SANTA CLARA EL.	635-1417	1	10	12
2	4881	SCOTT LAKE EL.	624-1443	0	2	0
3	4921	SEMINOLE EL.	261-7071	45	1	31
4	4961	SHADOLAWN EL.	758-3673	0	37	2
4	5001	SHENANDOAH EL.	643-4433	62	1	317
1	5021	SHEPPARD, BEN EL.	556-2204	78	0	90
1	5031	SHEPPARD, BEN ANNEX EL.	821-7108	37	0	58
4	5041	SILVER BLUFF EL.	856-5197	23	0	41
1	5051	GRAHAM, ERNEST R. EL.	825-2122	36	0	42
1	5081	SKYWAY EL.	621-5838	9	1	14
2	5091	SOUTH POINTE EL.	531-5437	11	1	28
5	5121	SNAPPER CREEK EL.	271-2111	10	1	13
8	5131	NORTH DADE CTR. FOR MODERN LANGUAGE	625-3885	1	2	6
3	5201	SOUTH HIALEAH EL.	8885-4556	118	1	169
5	5241	SOUTH MIAMI EL.	667-8847	8	1	8
6	5281	SOUTH MIAMI HEIGHTS EL.	238-6610	14	0	12
4	5321	SOUTHSIDE EL.	371-3311	10	0	90

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
3	5361	SPRINGVIEW EL.	885-6466	22	0	20
3	5381	STIRRUP, SR., E. W. F. EL.	226-7001	22	2	117
4	5401	SUNSET EL.	661-8527	1	13	5
5	5421	SUNSET PARK EL.	279-3222	6	1	26
3	5431	SWEETWATER EL.	559-1101	48	0	241
5	5441	SYLVANIA HEIGHTS EL.	266-2511	24	0	30
2	5481	TREASURE ISLAND EL.	865-3141	13	9	11
5	5521	TROPICAL EL.	221-0284	13	1	18
4	5561	TUCKER, FRANCES S. EL.	444-8203	7	0	31
1	5601	TWIN LAKES EL.	822-0770	57	0	65
5	5641	VILLAGE GREEN EL.	226-0441	31	0	28
5	5671	VINELAND EL.	238-7931	0	1	5
1	5711	WALTERS, MAE M. EL.	822-4600	115	0	15
6	5791	WEST HOMESTEAD EL.	248-0812	1	53	3
4	5831	WEST, HENRY S. LABORATORY	661-7661	1	0	0
3	5861	WEST LITTLE RIVER EL.	691-6491	4	7	66
3	5901	WESTVIEW EL.	688-9641	2	13	5
4	5931	WHEATLEY, PHILLIS EL.	573-2638	1	9	23
6	5951	WHISPERING PINES EL.	238-7382	1	1	0
6	5961	WINSTON PARK EL.	386-7622	6	2	18
1	5971	YOUNG, NATHAN B. EL.	685-7204	1	2	6
4	6011	ALAPATTAH MIDDLE	634-9787	3	58	79
5	6021	ARVIDA MIDDLE	385-7144	2	7	33
3	6031	BROWNSVILLE MIDDLE	633-1481	16	8	122
1	6051	CAROL CITY MIDDLE	624-2652	10	9	33

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
6	6061	CAMPBELL DRIVE MIDDLE	248-7911	15	37	8
4	6071	CARVER, G. W. MIDDLE	444-7388	5	11	13
6	6081	CENTENNIAL MIDDLE	235-1581	6	2	6
4	6091	CITRUS GROVE MIDDLE	642-5055	114	1	298
6	6111	CUTLER RIDGE MIDDLE	235-4761	16	4	28
3	6121	DARIO, RUBEN MIDDLE	226-0179	110	4	576
3	6141	DREW, CHARLES R. MIDDLE	633-6057	1	12	6
1	6171	FILER, HENRY H. MIDDLE	822-6601	362	2	206
5	6211	GLADES MIDDLE	271-3342	28	1	80
6	6221	HAMMOCKS MIDDLE	385-0896	19	21	69
1	6231	HIALEAH MIDDLE	681-1527	174	29	51
2	6241	HIGHLAND OAKS MIDDLE	932-3810	2	17	10
6	6251	HOMESTEAD MIDDLE	247-4221	5	51	9
2	6281	JEFFERSON, THOMAS MIDDLE	681-7481	3	228	20
2	6301	KENNEDY, JOHN F. MIDDLE	947-1451	8	181	18
4	6331	KINLOCH PARK MIDDLE	445-5467	116	0	239
1	6351	LAKE STEVENS MIDDLE	620-1294	16	9	44
3	6391	MADISON MIDDLE	836-2610	9	63	66
4	6411	MANN, HORACE MIDDLE	757-9537	6	208	21
1	6421	MARTI, JOSE MIDDLE	557-5931	244	1	154
6	6431	MAYS MIDDLE	233-2300	19	10	36
5	6441	MCMILLAN, HOWARD D. MIDDLE	385-6877	37	5	164
4	6481	MIAMI EDISON MIDDLE	754-4683	2	216	7
1	6501	MIAMI LAKES MIDDLE	557-3900	98	4	126
3	6521	MIAMI SPRINGS MIDDLE	888-6457	187	0	201

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
2	6541	NAUTILIUS MIDDLE	532-3481	36	24	63
2	6571	NORLAND MIDDLE	653-1210	6	39	20
1	6591	NORTH DADE MIDDLE	624-8415	0	11	15
2	6631	NORTH MIAMI MIDDLE	891-5611	5	334	20
1	6681	PALM SPRINGS MIDDLE	821-2460	262	0	126
5	6701	PALMETTO MIDDLE	238-3911	1	4	31
2	6721	PARKWAY MIDDLE	624-9613	0	15	7
4	6741	PONCE DE LEON MIDDLE	661-1611	49	1	124
6	6761	REDLAND MIDDLE	247-6112	10	4	27
6	6781	RICHMOND HEIGHTS MIDDLE	238-2316	11	6	24
5	6801	RIVIERA MIDDLE	226-4286	75	0	66
3	6821	ROCKWAY MIDDLE	221-8212	82	3	96
4	6841	SHENANDOAH MIDDLE	856-8282	104	2	379
5	6861	SOUTHWOOD MIDDLE	251-5361	8	3	8
5	6881	SOUTH MIAMI MIDDLE	661-3481	30	3	42
5	6901	THOMAS, W. R. MIDDLE	995-3800	105	0	120
4	6911	WASHINGTON, B. T. MIDDLE	324-8900	22	49	328
5	6961	WEST MIAMI MIDDLE	261-8383	146	1	137
3	6981	WESTVIEW MIDDLE	681-6647	9	163	19
1	7011	AMERICAN SR.	557-3770	341	19	124
5	7051	BRADDOCK, G. HOLMES	225-9779	599	30	545
8	7061	SCHOOL FOR ADVANCED STUDIES	347-1089	8	1	0
4	7071	CORAL GABLES SR.	443-4871	454	18	306
8	7081	DESIGN AND ARCHITECTURAL SR.	995-1912	25	12	26
8	7091	SCHOOL FOR ADV. STUDIES SO.	347-1089	4	0	1

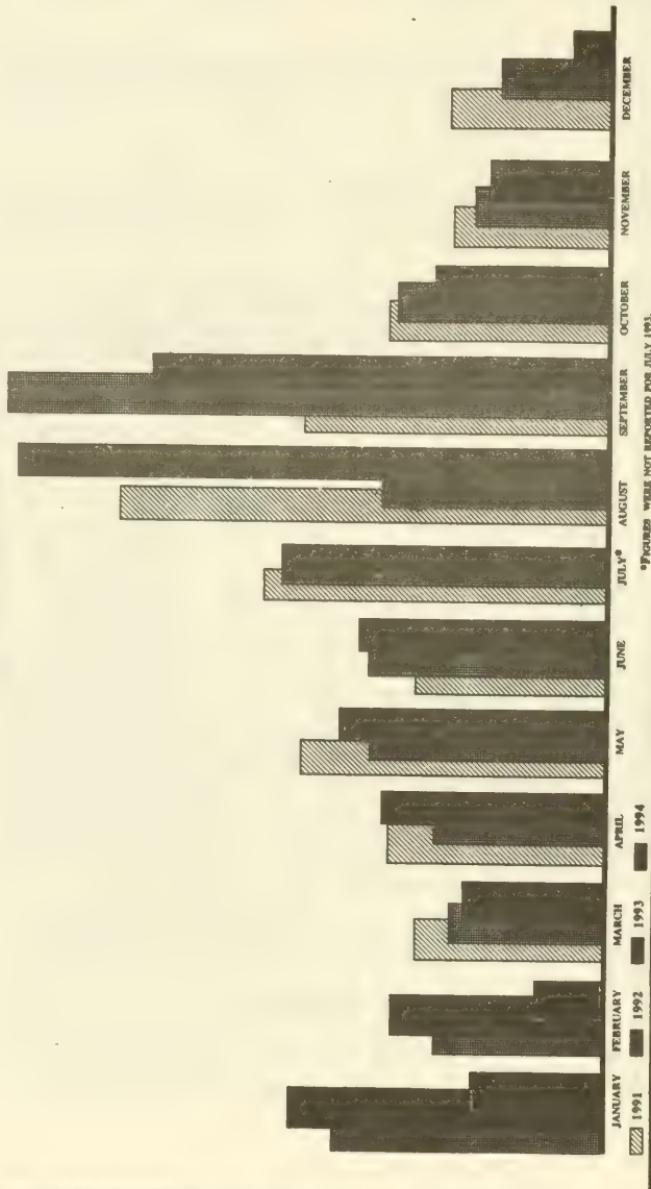
REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
1	7111	HIALEAH SR.	822-1500	869	11	132
1	7111	HIALEAH-MIAMI LAKES SR.	823-1330	540	24	215
6	7151	HOMESTEAD SR.	245-7000	61	91	21
8	7161	MAST ACADEMY	995-7264	10	7	8
2	7201	MIAMI BEACH SR.	532-4515	120	142	139
1	7231	MIAMI CAROL CITY SR.	621-5681	29	50	61
3	7251	MIAMI CENTRAL SR.	696-4161	22	409	45
8	7254	MIAMI DOUGLAS MACARTHUR SR.- NO.	826-1989	5	17	2
3	7271	MIAMI CORAL PARK SR.	226-6565	478	18	699
4	7301	MIAMI EDISON SR.	751-7337	3	1,109	18
4	7341	MIAMI JACKSON SR.	634-2621	86	207	360
5	7361	MIAMI KILLIAN SR.	271-3111	36	31	172
2	7381	MIAMI NORLAND SR.	653-1416	0	75	28
3	7411	MIAMI NORTHWESTERN SR.	836-09911	12	44	18
5	7431	MIAMI PALMETTO SR.	235-1160	5	8	31
4	7461	MIAMI SENIOR	649-9800	716	27	727
3	7511	MIAMI SPRINGS SR.	885-3585	568	18	279
6	7531	MIAMI SUNSET SR.	385-4255	77	36	202
2	7541	NORTH MIAMI BEACH SR.	949-8381	14	229	13
2	7591	NORTH MIAMI SR.	891-6590	20	728	40
8	7601	W.M. H. TURNER TECH ARTS SR.	691-8324	11	87	41
8	7631	MIAMI DOUGLAS MACARTHUR SR.- SO.	279-5422	9	0	8
6	7701	SOUTH DADE SR.	247-4244	28	137	22
5	7721	SOUTH MIAMI SR.	666-5871	479	22	185
6	7731	MIAMI SOUTHRIDGE SR.	238-6110	116	14	70

REGION	SCHOOL NO	SCHOOL NAME	PHONE	CUBA	HAITI	NICAR
5	7741	SOUTHWEST MIAMI SR.	274-0181	460	2	158
8	7901	NEW WORLD SCHOOL OF THE ARTS	347-3135	9	2	14
8	8005	LINDSEY HOPKINS EDUCATIONAL CENTER	324-6070	2	0	0
8	8011	OCCUPATIONAL TRAINING CENTER	642-8665	13	0	16
8	8016	TAP PROGRAM FACILITIES	995-7346	0	0	0
8	8017	ALTERNATIVE EDUCATION PROGRAM	995-1270	70	16	128
8	8019	ACADEMY OF COMMUNITY EDUCATION	445-0033	6	1	8
8	8101	MANN, JAN OPP. CENTER	625-0855	6	5	4
8	8121	C.O.P.E. CENTER-NO.	836-2300	7	11	10
8	8131	C.O.P.E. CENTER-SO.	233-1044	12	3	30
8	8141	JUVENILE JUSTICE CENTER	638-2054	7	10	7
8	8151	ROBERT RENICK EDUCATIONAL CENTER	624-1171	1	1	0
8	8161	DCPS CORPORATE ACADEMY	995-1111	0	2	6
8	8181	KRUSE', RUTH OWENS EDUCATION CENTER	270-8699	10	0	6
8	8201	CORPORATE ACADEMY SOUTH	246-4348	2	3	0
6	8701	SPECIAL CENTER FOR ESE, REGION 6	248-5723	0	0	0
8	8911	MORGAN, ROBERT VOC. TECH. INSTITUTE	253-9920	6	6	3
8	9731	INSTRUCTIONAL CENTER SYSTEMWIDE	995-1270	10	3	3
8	9732	MERRICK EDUCATIONAL CENTER	445-5188	19	2	16
8	9772	DISTRICT INSTRUCTIONAL CENTER I	995-1270	7	4	1
		TOTAL ACTIVE STUDENTS		11,913	7,014	15,559

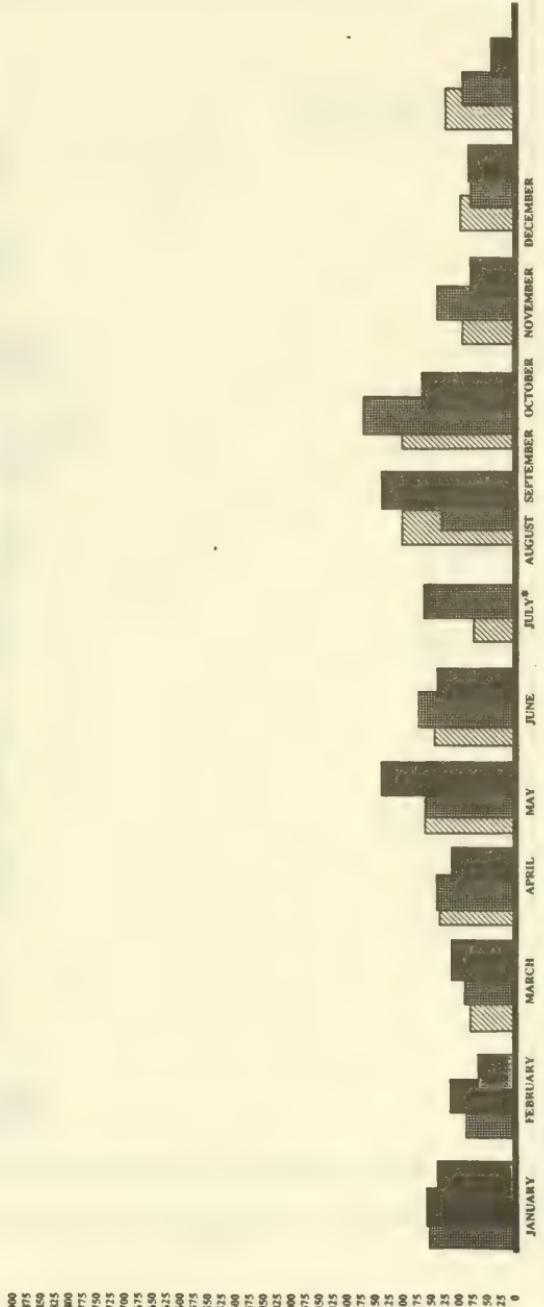
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DATA COLLECTED FROM:
 PRODUCT #T0500P28-01
 DIVISION OF STUDENT SERVICES
 AND ATTENDANCE
 MARCH 8, 1994

TOTAL FOREIGN STUDENT REGISTRATIONS
36-MONTH PERIOD



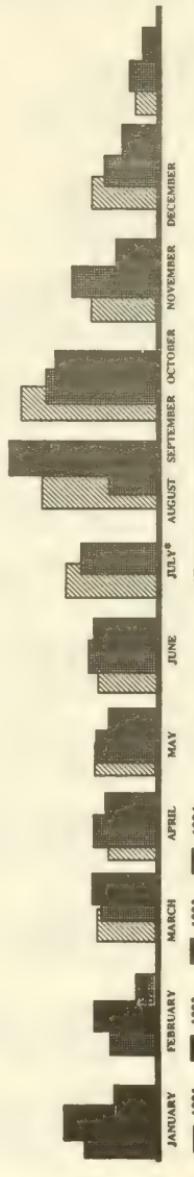
CUBAN STUDENTS
36-MONTH PERIOD



HAITIAN STUDENTS
36-MONTH PERIOD

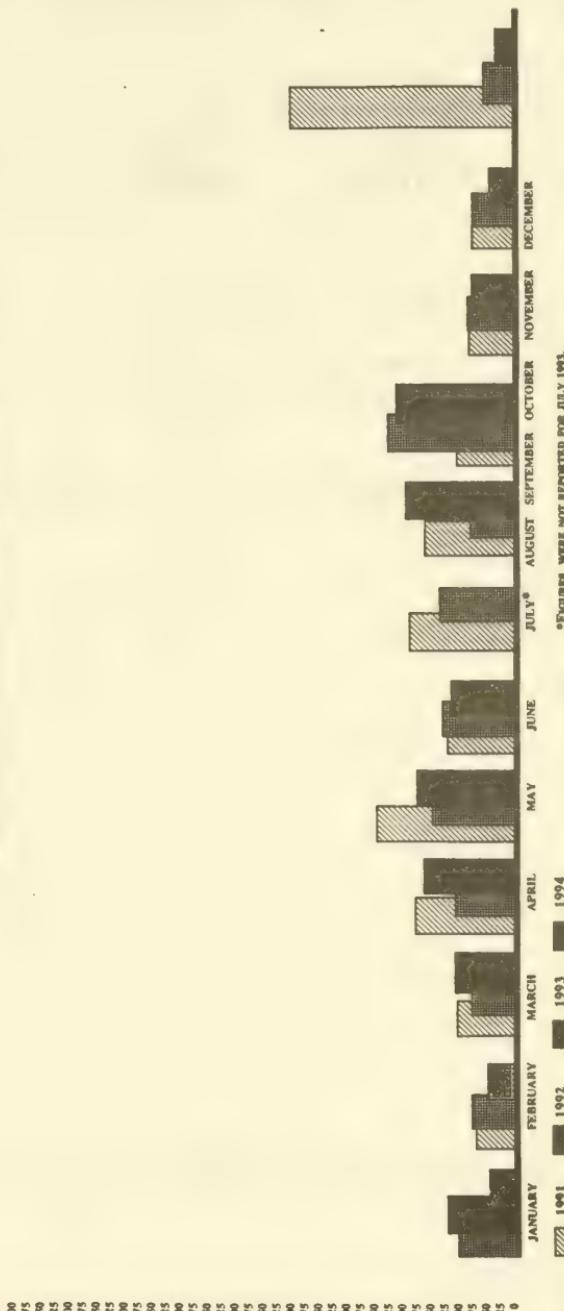
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*FIGURES WERE NOT REPORTED FOR JULY 1993.

NICARAGUAN STUDENTS
36-MONTH PERIOD



*Figures were not reported for July 1993.

**SUMMARY OF FOREIGN-BORN STUDENT REGISTRATIONS
IN DADE COUNTY
1990-91 THROUGH 1993-94**

K-12

<u>YEAR</u>	<u>Student Membership (First Month)</u>	<u>Foreign- Student Registrations</u>	<u>Monthly Average</u>
1990-91	288,698	13,904	1,159
1991-92	300,576	12,238	1,020
1992-93	297,986	11,266	939
TOTAL (36 months)		<u>37,408</u>	<u>1,039</u>
 Annual Average		 <u>12,469</u>	
 1993-94 (7/1 - 2/28)	306,452	7,078) 958
 (3/1 - 6/30)		4,422	

**FISCAL
ANALYSIS**

DISTRICT EXPENSE NOT REIMBURSED BY STATE OF FLORIDA (OPERATING)

<u>1993-94 Operating Expenditures Per Student</u>	<u>1993-94 State Revenue</u>	<u>1993-94 Unreimbursed District Expense</u>
\$ 4,510	\$ 3,848	\$ 662

Includes Intensive English program and programs providing Basic Skills in the home language until the student is fluent in English.

Fiscal Impact on District: School Years 1990-91, 1991-92, 1992-93, and 1993-94:

Unreimbursed Expense (Times) Total Foreign-Born Registrations	\$ 662 <u>x</u> 48,908
Total Unreimbursed Operating Expenses, 1993-94 1990-91 Through 1993-94	<u>\$ 32,377,096</u> <u>\$ 83,913,624</u>

POTENTIAL DISTRICT EXPENSE TO PROVIDE TEMPORARY AND PERMANENT FACILITIES

The district is presently in the midst of a massive construction and renovation program to accommodate student growth and refurbish and update older facilities. The district has grown by 82,793 students since November 1983. The Board is committed to constructing at least 56 schools between 1989-90 and 1996-97. The substantial influx of refugees was not anticipated in that plan. Due to limited existing state and local funds, a \$980 million bond referendum was approved by the voters in March 1988. As a practical matter, the district has now tapped all available state and local funding sources for its capital construction program and must substantially redirect its program to accommodate additional refugee growth, either by drastically reducing the updating of older facilities or by adopting alternative housing arrangements for severely overcrowded schools (i.e., double sessions).

Estimated Cost to Provide Additional Student Stations:

Immediate:	Relocatable classroom space (portable classrooms) cost per student	\$2,400 - 2,600
Long Range:	Permanent classroom space cost per student:	
	Elementary	\$10,551
	Middle	\$13,269
	Senior	\$20,722

Estimated Cost to House Foreign-Born Students Arriving During 1990-91 Through 1993-94:

Immediate:	\$122,270,000
Long Range:	\$589,358,434

**NEWS
ARTICLES**

Schools seek funds for foreign influx

By ANN DAVIS
Head Staff Writer

A Haitian girl flees political violence in Port-au-Prince, and enrolls in Fort Lauderdale, Fla., school. A son of a tycoon breezes into Miami for six months to learn English.

Two Nicaraguan teenagers enter ninth grade English classes with only a seventh-grade education in Spanish.

Rich or poor, undocumented or legal, any child who shows up in Florida and asks for a public education is entitled to it, the U.S. Supreme Court has ruled.

It's a law the state's school districts say they can no longer afford to obey — not unless the feds pay them share.



FOREIGN STUDENTS IN SOUTH FLORIDA

THE MIAMI HERALD

MONDAY, FEBRUARY 28, 1994

THE IMMIGRATION CRISIS
OCCASIONAL SERIES

The U.S. Supreme Court says that any child who shows up in any state and asks for a public education is entitled to it. Yet, the feds pay nothing for the cost of educating undocumented students or children on tourist and student visas, and pay very little toward educating other immigrants.

It costs about \$4,000 per year to educate each student in the school system. In Dade, the feds cover less than 3 percent of that cost for foreign-born students. In Broward, the feds cover 2 percent or less. Those estimates do not include the cost of building schools to house new students.

DADE SCHOOLS

Foreign student registrations in Dade County are approaching levels during the 1980 Mariel boatlift.
1989-90 14,699
1990-91 5,716
1991-92 5,887
1992-93 6,568
Total number of foreign-born students in Broward as of 11/93 2,230

NOTE: Foreign-born students includes both documented and undocumented immigrant children.

SOURCES: Broward County Multicultural Education Department, Dade schools

SEAN TEVIS / Miami Herald Staff

of district growth. "For every one of those foreign-born students, that is taking money away from other students," said Tom Corra, head of Broward County currently registrants half as many as Dade — 6,000 foreign-born students each year, accounting for 60 percent

PLEASE SEE STUDENTS, 2B

STUDENTS, FROM 18

legislative and labor relations for Dade County Public Schools.

"We're not trying to make these children the bad guy," Cerra said. "We're merely trying to say to the federal government, 'It costs us money to educate these kids, and it's not money coming from you or anyone else. It's local dollars that could be used for other purposes.'"

But school officials in South Florida also say they don't believe in turning away needy children.

"If they are educated, they can become more productive citizens," said Bailey Stewart, Dade's senior executive director of student services and attendance. "If they're unduplicated, they'll be a burden to the community."

1,000 per month

The numbers are staggering: 1,000 new foreign-born students enroll in Dade County public schools every month — enough kids, justifiably, to hire 13 new teachers a week and fill 12 new elementary schools a year. Broward County could fill seven new elementary schools every year.

The federal government pays less than three percent of Dade County's total expenses for foreign-born kids, and less than two percent of Broward's. School leaders say the funding gap has reached crisis proportions.

Fed up with the system's flaws, Dade and Broward educators have linked up with districts across Florida and in California, Texas, New York and New Jersey to lobby Congress to exact the federal government's fair share.

"It's not necessarily a backlash against the immigrants, but more of a cry to the federal government to own up to its responsibilities," said Patricia Guillermo, deputy press secretary for Texas Attorney General Dan Morales.

Wave of concern

States hope to ride a crest of recent developments: Gov. Lawton Chiles announced in December that he wants to sue the U.S. government for billions in lost funds spent on undocumented immigrants. California and Texas are expressing interest in filing similar suits.

Caught in the middle are children. Gifted students like Katia Prince, 17, a high school senior, fear going home to Haiti because her father is dead, and her mother abandoned her years ago. She can't go to college because she's undocumented and can't get financial aid. She can't lean on a brother or sister because she lives in a foster home.

There are kids like Richard Cayasso, 18, and his brother Robert, 16, whose father was killed in a car accident last April in South Florida while trying to earn money to send back home. The boys and their mother came on tourist visas from Bluefields, Nicaragua, in September to settle a lawsuit. The boys may have to stay at Norian High past May.

Then, there are those like Camilo Andres Bernal, 16, a bright Colombian boy who will spend the next 10 months in school here on a tourist visa, "to practice English, meet people, get to know life here."

Worry about scapegoats

Immigrant advocates say they worry about blaming any children, undocumented or legal, for shortcomings in South Florida schools.

"It's real easy to create scapegoats here," said Cheryl Little, attorney for Florida Rural Legal Services, Inc. "To make innocent children suffer because of bureaucratic problems I feel is unfair. The fact is that immigrants contribute many dollars to our economy. Many of them pay taxes, have businesses."

Members of the National School Boards Association met in Washington Feb. 6 to 8 to plead their cases to senators, representatives, bureaucrats.

School leaders from Florida met with Sen. Connie Mack and visited the offices of 23 representatives to ask for millions of dollars in reimbursement in federal education money — plus a guarantee they won't be stuck with the entire bill in the future.

South Florida school districts have much at stake.

Little reimbursement

Since September, revisions to a federal equal-access settlement have kept school officials from even asking about a child's immigration status — allowing students to flood classrooms after tourist visas expire and making it harder to keep track of the numbers of undocumented students in public schools.

Access is fairer, educators say, but more expensive.

"We've never received funding for undocumented students. Those on tourist or student visas we don't get any money for them either," said Stan Corces, Dade assistant superintendent for the budget.

The federal government doesn't reimburse Florida school districts for all their costs in teaching immigrant children. Dade, for instance, says it only receives \$8.6 million last year in federal aid for immigrant education, but it costs 35 times that: \$300 million or about \$4,000 apiece for the district's 74,872 foreign-born students. That figure, however, includes students from countries such as Cuba, who are now legal residents or U.S. citizens.

Cost taxpayers millions

The district gets nothing for students who are here illegally. Yet it costs \$68.2 million to educate the district's 16,395 undocumented students, administrators say.

Broward County doesn't keep numbers on undocumented students. But the district estimates that over the past four years, state taxpayers have given \$110 million and local taxpayers \$39.2 million to educate immigrant students. The feds pitched in just \$708,000.

Administrators know maintaining good student-teacher ratios and spacious facilities is a pipe dream, without the feds' help.

Officials from both counties warn they can no longer afford to renovate old schools and may have to push overcrowded schools into double sessions.

A Dade County immigration impact report being circulated to Florida's congressional delegation also flatly states the district can no longer meet its goal of constructing 56 new schools between 1989 and 1997.

"The substantial influx of refugees was not anticipated," it reads. "As a practical matter, the district has now tapped all available state and local funding sources for its capital construction program."

Some are winter tourists

Broward needs at least 37 new schools within the next five years, officials say. Crowding is so bad that some elementary

schools in the county are packed, and new schools are opening in portable facilities. For next year, schools will have to consider even more drastic solutions, such as year-round education or double sessions.

It's little wonder, then, that the swamped staff at the New Student Reception Center in Miami Springs is ranked by wealthy and middle-class tourists who show up in flashy clothes and jewelry to enroll in school — or who intentionally "dress down" to feign poverty.

Hundreds of wealthy Brazilians enroll in Dade schools from November to January, Brazil's summer vacation, said registrar Sofia Fernandez-Amaro. During a single week in January, she counted 245 new tourists — some from Brazil, others from Bolivia, Colombia, Venezuela.

The irony is obvious.

"I don't think we should be paying for the education of wealthy people," said Mercedes Tural, Dade's bilingual and foreign language director.

Defend attendance

Some foreign students defend their right to go to school because they spend money in the United States.

"My father pays taxes for his business and our house. So it's kind of paying for our school," said Brazilian student Christian De Almeida, 16, whose father is part-owner of Guy Laroche modeling agency. Christian came as a tourist, then applied for and received a student visa to finish high school here.

And educators hasten to add that not all children on tourist visas are well-off vacationers. Many are children who couldn't get asylum and escaped their country the easiest way possible.

Help may not come

U.S. Assistant Secretary of Education Thomas Payzant says he's asked for more emergency aid money to cover costs of educating undocumented students, as well as children on tourist and student visas. But Congress may not find such pending very popular.

"The climate has changed dramatically," he said. "We've got to come to grips with the deficit and get the economy in shape."

Meanwhile, educators worry that the aid will come too late, if it comes at all.

"If we have another influx of immigrants, like the Mariel boatlift, we're dead," said Susan Latvala, of the Florida School Boards Association. "We don't want to go to Washington, in the middle of an emergency, to beg for help to put a Band-Aid on the situation."



HEADED FOR SCHOOL: Elyne Y. Cuadra, 12, from Nicaragua, gets a series of immunizations at the New Student Reception Center for Dade County Public Schools. Her aunt, Aura Herrera, 23, of Hialeah, tells her to look the other way.

THE MIAMI HERALD

MONDAY, FEBRUARY 28, 1994

Twilight Zone

Legal status, not grades, may keep star student out of college

By ANN DAVIS
Herald Staff Writer

It was just to be a visit. A trip to see Auntie in Fort Lauderdale, then back to Haiti. Katia Prince didn't plan on staying, until she found out home wasn't a place for her anymore.

"Your father is very sick," her aunt told her in 1989. "He is going to die."

Since no one else in Port-au-Prince could provide for Katia — her mother abandoned her when she was little — she didn't risk going back. She was in Miami when her father, a schoolteacher and criminal lawyer, died of a brain aneurism in 1991.

Now 17 and in foster care, Katia is a star student with nowhere to go. Her GPA at Miami Beach High: 4.218. Her course load: all honors and advanced classes. Her English:

'My education is all that I have. I don't have any money. I don't have any parents. This is all I have to give back to the community.'

KATIA PRINCE,
undocumented student from Haiti

impeccable.

Her immigration status: undocumented.

And because of that, she fears she'll enter the twilight zone when she graduates this June. Katia's not eligible for financial aid for college and

PLEASE SEE KATIA, 2B

Legal status, not grades, may block path to college

KATIA, FROM 10

can't afford tuition as a "foreign student." Without legal residency, she'll have difficulty getting a job. And she's not alone.

Florida school districts are fighting for funds for children like Katia, who they say clearly belong in school but whose numbers are overwhelming the system.

"My education is all that I have," said Katia, whose tourist visa expired in 1990. "I don't have any money. I don't have any parents. This is all I have to give back to the community."

Some end up homeless

Teachers and social workers tell tales of students like Katia who thrived in public school and then dropped out of life when they graduated. One Central American student ended up homeless, with twins, evading immigration authorities. A severely depressed Haitian high

school graduate now sits for hours in front of the TV. A Dominican began burglarizing homes to get money.

"You get to know these kids who are really American; they just weren't born here," said Katia's principal, William Renouart. "Basically we make them part of our family and then we say, 'You're the bastard child, and you don't qualify for the inheritance.'"

The tens of thousands of students in South Florida left in legal limbo aren't all undocumented. Some are Nicaraguans or Salvadorans with stalled political asylum requests, or Bahamians or Romanians on green card waiting lists.

Vexing situation

The problem is so vexing that students at Beach High formed an immigration subcommittee in January to raise awareness of fellow students' plight. Katia is co-founder.

Here teachers call her exceptional. She spoke no English four years ago; now she makes A's in college-prep English. She was ruled too advanced for college-prep French.

Not bad for a girl who was beaten up by eighth-grade classmates jeering her as a "dirty Haitian with AIDS."

With each step back, Katia moves ahead. She is president of her school's Partnership for Black Progress, a club that tells African Americans that doing well in school is "cool." She tutors at South Pointe Elementary School. She belongs to Future Business Leaders of America.

"Well," she said, "do we just stay here and do nothing?"

Her answer is no. Instead, she's applying to Harvard, Howard and Florida International University.

"I guess when they find I'm undocumented, everything might change," she said.



PATRICK FARRELL / Miami Herald Staff

NOWHERE TO GO: Katia Prince, a star student at Miami Beach High and an undocumented immigrant from Haiti, is not eligible for federal aid and can't afford tuition as a foreign student.

Most colleges, Harvard, FIU and the University of Miami among them, say they will admit students regardless of their immigration status. The tricky part comes when undocumented kids can't get federal financial aid, because they aren't legal residents. Schools

then require proof they can pay their own way. Of course, most can't.

A lawyer is now trying to help Katia obtain residency and says she may get her wish — but it could take more than a year.

Remarkably, Katia doesn't seem to notice she's running a

race few of her Haitian brethren win.

"If someone gave me a chance to go to college and be whatever I could be, I'm sure that in maybe 15 or 20 years from now, I'd be very productive, as well and maybe better than what an American could be."

THE MIAMI HERALD

TUESDAY, FEBRUARY 15, 1994

State seeks aid to monitor immigrants

The Governor's Commission on a Free Cuba asked the federal government Monday to set up a plan that would monitor the flow of temporary immigrants into and out of South Florida.

Such a survey would allow the state to collect from Washington the money it spends on social services for "temporaries" who remain here.

The commission's request was sent to the Justice and State Departments.

THE MIAMI HERALD
SATURDAY, FEBRUARY 12, 1994

Panel hears opinions on immigration rules

By LISA GETTER
 Herald Staff Writer

Florida cannot adequately take care of its own residents — in schools, hospitals and prisons — because of the federal government's "unrealistic immigration policies," Gov. Lawton Chiles told the Commission on Immigration Reform on Friday.

"Florida has opened its arms to people seeking better lives. It's time that our government opened its eyes to the problem caused by unrealistic immigration policies," Chiles said.

The nine-member commission, created by Congress to review

America's immigration laws, traveled to Miami this week because it's "obviously a logical place" to study the impact of immigration, Chairwoman Barbara Jordan said.

Chiles — flanked by the secretaries for the departments of Corrections, Education, and Health and Rehabilitative Services — reiterated his plan to sue the federal government to recover the state's unreimbursed costs of immigration. He estimated that the state spends \$1 billion each

PLEASE SEE IMMIGRATION, 2B

CHILES' GOALS

Gov. Lawton Chiles told the Commission on Immigration Reform on Friday that the federal government should:

- Enforce immigration laws better.
- Assume full responsibility for the costs of illegal immigration.
- Establish a nationwide fingerprint system to identify criminal aliens.
- Provide adequate funding for immigrant and refugee programs.
- Complete and fund a mass immigration emergency plan.
- Appoint a White House adviser on immigration.

Congressional panel hears opinions on immigration rules

IMMIGRATION, FROM 1B

year on illegal immigrants alone.

"There's no mean spirit," said Jim Towe, HRS secretary. "What you're hearing is an exhausted spirit."

Local leaders — Dade County Manager Joaquin Aviño, Jackson Memorial Hospital Administrator Ira Clark, Dade County School Board Chairwoman Betsy Kaplan and Broward County Commission Chairwoman Sylvia Poirier — also testified about the financial impact of immigration.

Each said it was difficult to put a price-tag on the contributions of immigrants to South Florida. The foreign-born account for 95 percent of Dade's growth in the last decade. In Broward, they account for 36 percent.

The panel also heard testimony about the disparate treatment given Cuban and Haitian refugees. Under the Cuban Adjustment Act of 1966, most Cubans are eligible for permanent residency one year and a day after they contact the U.S. Immigration and Naturalization Service.

No other nationality gets similar treatment.

"There is no Haitian Adjustment Act," Chiles said.

"When you get a group of Cubans coming into this community, they are welcomed. When you get a group of Haitians coming into this community, the welcome mat is not there," said former Metro Commissioner Barbara Carey, who is in charge of multicultural programs for the Dade School Board.

The different treatment leads to increased

ethnic tensions, said Alex Stepick, director of the Florida International University Immigration and Ethnicity Institute.

"The U.S. provided unprecedented assistance to Cubans and has denied Haitians aid at every opportunity," Stepick said.

The commission's first report to Congress is due in September. A final report is not expected until 1997. The panel's members range from chairwoman Jordan, a liberal former congresswoman from Texas, to Harold Ezell, a conservative and controversial former IRS regional commissioner from California.

During the discussion Friday, Ezell said he didn't believe in teaching Spanish to American-born students in public schools. "My understanding is English is still the language of America," he said.

THE MIAMI HERALD -- SUNDAY, FEBRUARY 6, 1994

CHILES/MACKAY

U P D A T E



February 21, 1994

ISSUE 082

GOVERNOR CHILES CALLS FOR FEDERAL IMMIGRATION REFORM

Governor Lawton Chiles is calling for federal action to ease the strain of years of unchecked immigration on Florida.

Florida's population of foreign-born residents has tripled over the past two decades —from 540,000 to 1.7 million. While the federal government sets immigration policy, it is left to the states to pay for additional services like education, health care, welfare and —in some cases — criminal justice that result from large immigrant populations. Governor Chiles believes it's the federal government's responsibility to pick up the bill.

"Floridians have done more than their share to help the people who arrive on our shores. It's time the federal government lived up to its responsibility to Florida's taxpayers," Governor Chiles said. "Very simply, federal bills are being charged to Florida's account — and we've had enough."

Governor Chiles is calling on the federal government to:

- enforce current immigration laws;
- take full responsibility for the costs the state now incurs as a result of illegal immigration and

refugee polity. This includes establishing mechanisms to identify undocumented immigrants and fully reimbursing state and local governments for the costs of providing health care, education and other services;

- do a better job of identifying criminal immigrants through a nationwide fingerprint system in conjunction with the National Criminal Information System (NCIC). Further, the federal government must take full responsibility for incarcerating these people —either in a federal prison or through FULL reimbursement to the states.
- provide adequate funding for immigrant and refugee assistance programs so that the level of funding is commensurate with the number of aliens who enter the U.S. annually;
- have a mass immigration

emergency plan in place that includes adequate authorities and resources to respond to any future mass migration into the United States; and

- allow the President to appoint a White House Advisor on Immigration who will be responsible for overseeing and advising the President on all issues affecting the foreign, domestic and budgetary matters that influence U.S. immigration and refugee policy.

"At the state level, our costs total close to a billion dollars each year and local governments spend hundreds of millions more," Governor Chiles said. "Florida has opened its arms to people seeking better lives. It's time that our government opened its eyes to the problems caused by unrealistic immigration policies."



FLORIDA FACTOID

State spending on corrections has increased by nearly 300 percent in the past 10 years. State spending in the Department of Law Enforcement is up by around 250 percent in the past decade. In 10 years, the Department of Highway Patrol's budget has nearly doubled.

Miami Herald, February 6, 1994

Mrs. THURMAN. The next witness, Mr. Chairman, is Bernardo Garcia, who is here to speak on behalf of our Commissioner of Education, Dr. Jamerson, who we are very proud of. I think he sent one of his best representatives.

We appreciate your being here and look forward to your testimony. I think our remarks earlier will reflect what Mr. Garcia will also address. We thank you.

STATEMENT OF BERNARDO GARCIA, DIRECTOR, OFFICE OF MULTICULTURAL STUDENT LANGUAGE EDUCATION, FLORIDA DEPARTMENT OF EDUCATION

Mr. GARCIA. Mr. Chairman, Congresswoman Thurman, the Commissioner of Education in the State of Florida wants—

Mrs. THURMAN. Mr. Garcia, we can't hear you. She needs to be able to take this down.

Mr. GARCIA. Mr. Chairman, Congressman Thurman, the Commissioner of Education for the State of Florida wants to commend the Commission on Immigration Reform for holding this important hearing. It is his hope that information Governor Chiles has shared with you today will translate into quick action by the Federal Government to help Florida and all the States which are severely impacted by large influxes of immigrant students.

The Commissioner of Education would like to tell you that the costs of educating immigrant students impacts Florida's economy enormously. He asks you to consider the following.

In 1992, Florida's schools served immigrant students from an estimated total foreign-born population of nearly 1 million. Because Federal law mandates a full or free education for all children, whether they be legal or illegal alien or refugee students, Florida must educate an estimated 150,000 limited English proficient students each year.

Statewide, Florida schools estimate that they have spent nearly \$975 million over the past 5 years educating legal and illegal immigrants and alien children and adults.

In the 1991-1992 school year, Dade County spent \$588 billion for every new immigrant student, now 1 in every 4 enrolled students, at a total cost of \$45 million. In addition, Dade needs \$123 million immediately for new facilities and an estimated \$533 million long range to meet enrollment demands.

In Broward County, which now enrolls nearly 15,000 limited English proficient students, a new elementary school must be built every 2 months. Broward faces an immediate expense of \$15.8 million and a long-term expense of \$71 million for classrooms.

In Palm Beach County, limited English proficient students now total over 15,000, an increase of 4,000 since June 1992.

According to information compiled by National School Boards Association, the States of California, New York, Florida, Texas, Illinois, New Jersey, Massachusetts, Washington, Pennsylvania, and Michigan, have a combined student immigrant population of over 600,000. Nationwide, the U.S. Department of Education estimates that 700,000 immigrant students qualify for Federal support.

Mr. Chairman, Congresswoman Thurman, the Federal Government has a program in place, it is called the Emergency Immigrant Education Act, which is supposed to provide \$500 for each eligible

immigrant student. Providing this per-pupil grant or allotment, as mandated in the act and by formula, would help States immeasurably in paying the costs for educating immigrant children.

Unfortunately, this program is currently funded at just under \$40 million annually. Of the 700,000 eligible students, 460,000 are served.

Even more unfortunately, these 460,000 immigrant children are receiving an annual grant from the Federal Government of about \$60 per year, because allotments to districts with large numbers of immigrant children are ratably reduced in order to serve all districts which meet eligibility, currently a requirement of 500 students or 3 percent of the total student enrollment.

What this means is that the school district with high numbers of immigrant children must absorb the difference, about \$440 per student. You don't have to be a mathematician to calculate the enormous cost to school districts like Dade, Broward, Palm Beach, and several other counties in Florida.

Our Federal immigration laws determine the number of new entrants into the United States. Our Federal immigration laws, backed up by several Supreme Court decisions in the past 20 years, mandate that all children residing in any school district, whether they be legal or illegal immigrants, alien residents or refugees, are entitled to a public education.

We support these policies, but we demand in return a Federal/State immigration partnership that recognizes Federal responsibility in meeting the cost of education, and related social service and health costs borne by our States and school districts in providing essential services to immigrant children and adults.

It is extremely regrettable that any State should be put in a position of considering legal action against the Federal Government in order to achieve justice and equity for children. But we have reached a point where we may have no other option. Neither the administration nor the Congress has moved to enact policies or provide resources to effect a Federal/State partnership that adequately meets the special needs of immigrant children and adults.

It is the hope of the Commissioner of Education that this commission will take our testimony, and the testimony of policymakers in other States, back to Washington with a recommendation that a new Federal/State partnership be implemented.

Unless the Federal Government adopts policies which are backed up with necessary resources, our already burdened urban school districts face certain deterioration.

It is time for the Federal Government to take responsibility for immigration and refugee policies. The Commissioner of Education for the State of Florida urges that the commission participate in this process.

Thank you.

Mrs. THURMAN. Mr. Garcia, we thank you very much.

[The prepared statement of Mr. Garcia follows:]

MR. CHAIRMAN AND CONGRESSWOMAN THURMAN,

The Commissioner of Education for the State of Florida wants to commend the Commission on Immigration Reform for holding this important hearing. It is his hope that the information Governor Chiles has shared with you today will translate into quick action by the federal government, to help Florida and many other states which are severely impacted by large influxes of immigrant students.

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- ◆ Statewide, Florida schools estimate that they have spent nearly \$975 million over the past five years educating legal and illegal immigrants and alien children and adults.
- ◆ In the 1991-92 school year, Dade County spent \$588 for every new immigrant student--now one of every four enrolled students -- at a total cost of \$45 million. In addition, Dade needs \$123 million immediately for new facilities, and an estimated \$533 million long-range to meet enrollment demands.
- ◆ In Broward County, which now enrolls nearly 15,000 limited English proficient students, a new elementary school must be built every two months. Broward faces an immediate expense of \$15.8 million and a long-term expense of \$71 million for classrooms.

- ◆ In Palm Beach County, limited English proficient students now total over 15,000 -- an increase of 4,000 since June of 1992.

According to information compiled by the National School Boards Association, the states of California, New York, Florida, Texas, Illinois, New Jersey, Massachusetts, Washington, Pennsylvania and Michigan have a combined student immigrant population of over 600,000. Nationwide, the U.S. Department of Education estimates that 700,000 immigrant students qualify for federal support.

Mr. Chairman, Congresswoman Thurman, the federal government has a program in place -- it is called the Emergency Immigrant Education Act -- which is supposed to provide \$500 for each eligible immigrant student. Providing this per pupil grant or allotment, as mandated in the Act and by formula, would help states immeasurably in paying the costs for educating immigrant children.

Unfortunately, this program is currently funded at just under \$40 million annually. Of the 700,000 eligible students, 460,000 are served.

Even more unfortunately, these 460,000 immigrant children are receiving an annual grant from the federal government of about \$60 per year, because allotments to districts with large numbers of immigrant children are ratably reduced in order to serve all districts which meet eligibility -- currently a requirement of 500 students or 3% of the total student enrollment.

What this means is that the school districts with high numbers of immigrant children must absorb the difference -- about \$440 per student. You don't have to be a mathematician to calculate the enormous cost to school districts like Dade, Broward, Palm Beach and several other counties in Florida.

Our federal immigration laws determine the number of new entrants into the United States. Our federal immigration laws, backed up by several Supreme Court decisions over the past twenty years, mandate that all children residing in any school district -- whether they be legal or illegal immigrants, alien residents or refugees -- are entitled to a public education.

We support these policies, but we demand in return a federal/state immigration partnership that recognizes federal responsibility in meeting the costs of education, and related social service and health costs, borne by our states and school districts in providing essential services to immigrant children and adults.

It is extremely regrettable that any state should be put in a position of considering legal action against the federal government in order to achieve justice and equity for children. But we have reached a point where we may have no other option. Neither the Administration nor the Congress has moved to enact policies or provide resources to effect a federal/state partnership that adequately meets the special needs of immigrant children and adults.

It is the hope of the Florida Commissioner of Education that this Commission will take this testimony, and the testimony of policy makers in other states, back to Washington with a recommendation that a new federal/state partnership be implemented.

Unless the federal government adopts policies which are backed up with necessary resources, our already burdened urban school districts face certain deterioration.

It is time for the federal government to take responsibility for its immigration and refugee policies. The Commissioner of Education for the State of Florida urges the Commission to participate in this process.

Mrs. THURMAN. Mr. Kelley, we are certainly happy to have you here. He is the director of the Florida Medicaid Program for Florida's Agency for Health Care Administration, and we do appreciate your being here to give us some insight to what is happening in Medicaid as well.

Thank you.

STATEMENT OF MARSHALL E. KELLEY, DIRECTOR, FLORIDA MEDICAID PROGRAM, AGENCY FOR HEALTH CARE ADMINISTRATION

Mr. KELLEY. OK. Thank you, Congresswoman Thurman. Thank you for the opportunity to discuss the costs of illegal immigration on Florida's Medicaid program.

I will keep my remarks brief, but I would like to place this in the context of what Florida is doing in health care reform. Because as I think you will see, any dollar spent in terms of health care, there is options for that dollar to be spent in response to unmet needs.

In Florida, we have 2.5 million uninsured residents. While we think we have taken a leadership role among the 50 States to implement health care reforms, the steady costs of funding for illegal aliens in Florida is a serious impediment as we work to process further reforms. Medicaid in Florida, as in all States, is a joint Federal-State program, and at this time the Federal matching share is 54.8 percent. This will change in October, to 56.3 percent, which you know in terms of our dollars is about \$200 million, even though it is a couple little percentage points, \$200 million difference.

And under the provisions of the Fairness in Medicaid Funding Act, which Congresswoman Thurman has sponsored, it would certainly help States like Florida, California, target these efforts. And we will be happy to assist you in any way possible to bring this about.

With Florida's 2.5 million uninsured, while Medicaid serves a large volume of the real low-income people, in Florida, we have a particular problem because of the nature of the economy we have a great, great many small employers. We have very, very few big factories in this State that employs people by the thousands.

Most people in Florida are employed by small employers and are without health insurance up to the tune of \$2.5 million. Therefore, we have established community health purchasing alliances.

We are beginning to be able to bring insurance to those people who could not afford it before. And we have implemented a managed competition model which over the next year is going to be in full operation all over the State. Already these people are getting bids for insurance which is well below the market of a year ago and well below the current market outside of the alliances.

At this time, we have brought before the Florida legislature and the Health Care Finance Administration a new plan known as the Florida Health Security Plan which will provide coverage for an additional 1 million people based upon refinancing the structure of the Medicaid program. We certainly ask for your help and support in terms of trying to see the Florida Health Security Plan through.

While we have a great deal of sympathy for illegal aliens who come to Florida, we are not prepared to shoulder the financial burden that their needs create. The Budget Reconciliation Act of 1986 requires States to provide Medicaid coverage for emergency services provided to aliens who meet all eligibility requirements except for citizenship.

In 1992, 1993 alone, the Medicaid program paid claims, totaling \$16 million; of that, \$7.4 million was the State general revenue. And since January 1, 1987, when States were required to cover emergency services, Florida has incurred costs of \$44.8 million, of which \$20.2 million is the State general revenue.

These numbers are not estimates. They are actually claims paid on the computer for these individuals.

The cost of Medicaid coverage for all noncitizens since October 1, 1988, has been \$266 million. After recognizing and deducting the Federal share and reimbursement under the State Legalization Impact Assistance Grant, that still leaves a net cost to the State of over \$70 million.

Jackson Memorial Hospital, which is in Dade County in Miami, in 1992 alone provided care of approximately \$180 million which was uncompensated. Of that, they estimate \$60 million was for illegal aliens or refugees; and Dade County puts \$60 million into the Disproportionate Share Program which is a Medicaid program reimbursing hospitals for uncompensated care.

So despite these efforts, even when we get Florida Health Security Plan, there is going to be more than a million people who use the system with no reimbursement. Much of their costs are borne through higher premiums and increased health care fees paid by the people who do have insurance. Every unreimbursed health care dollar spent on an illegal alien is paid for—like the cost of any uninsured person—is paid for in some way by those Floridians who pay for care or have insurance.

We believe that here in Florida we are trying to set a good example to meet the State's health care needs and we certainly appreciate your efforts and look forward to working cooperatively to deal with this responsibility for illegal aliens.

Thank you.

[The prepared statement of Mr. Kelley follows:]

**Subcommittee on Information, Justice,
Transportation, and Agriculture
Field Hearing in Gainesville, Florida**

**Impact of Illegal Immigration on its Cities,
Counties and the State of Florida**

**Monday, March 28, 1994
9:30 AM**

**Santa Fe Community College
Building E Auditorium
Gainesville, Florida**

**Remarks to the Committee
Marshall E. Kelley,
Director of Medicaid
Agency For Health Care Administration
1317 Winewood Boulevard
Building 6, Room 233
Tallahassee, Florida 32399-0700**

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS MARSHALL KELLEY, AND I AM DIRECTOR OF MEDICAID FOR THE STATE OF FLORIDA, AGENCY FOR HEALTH CARE ADMINISTRATION.

Thank you for this opportunity to discuss the impact and cost of illegal immigration on Florida's Medicaid Program.

The State of Florida has two-and-one-half million uninsured residents. We have taken a leadership role among the 50 states in implementing health care reforms designed to provide access to affordable health care for all Floridians. Our goal is to accomplish that by the end of calendar 1994. The steady influx of illegal aliens in Florida is a serious impediment as we work to reform health care and hold down health care costs.

Florida Medicaid is one element in the spectrum of health care programs we are working to put in place. Florida Medicaid is an entitlement for people receiving assistance from the Aid to Families with Dependent Children and Supplemental Security Income Programs.

Medicaid in Florida is currently funded with a state matching share of 54.78%. This will change to 56.28% on October 1, 1994. Under the provisions of H. R. 4047 introduced by Congresswoman Karen Thurman, the Medicaid formula would be revised to target and assist states like Florida with such large-scale needs. We appreciate this effort and will assist in any way possible.

While Medicaid serves a large volume of low-income people in Florida, we recognize that perhaps the highest percentage of uninsured people are those employed by small businesses. Therefore, small employers have been the target population as we implement our 11 new Community Health Purchasing Alliances.

These alliances--or CHPAs-- were created by the Health Care and Insurance Reform Act of 1993 to pool the purchasing power of small groups, receive bids from the Accountable Health Partnerships, which offer health plans, and offer their small employer members a choice of plans at substantial discounts. This model of managed competition will be in full operation within a few weeks, and we expect it to have significant impact. In the months ahead we will be working to bring Medicaid recipients and state employees into the CHPAs as well.

The third part of Florida's health care reform effort is now before our Legislature. Known as the Florida Health Security Plan, it will provide coverage for individuals through the CHPAs and offer subsidies to people who do not qualify for Medicaid but whose income is up to 250 percent of poverty level. These subsidies will be on a sliding scale and will be financed through a restructuring of the Medicaid program based on a plan we have submitted to the Health Care Finance Administration. Florida Health Security will provide coverage to an additional 1 million uninsured individuals.

As you can see, Florida has structured a plan to meet the health care needs of its bona fide residents. While we have sympathy for the illegal aliens who come to our shores, we are not prepared to shoulder the financial burden their needs create. We have already paid a heavy price in that arena.

The Budget Reconciliation Act of 1986 required states to provide Medicaid coverage for emergency services provided to aliens who meet all eligibility requirements except for citizenship. In fiscal year 1992-93 Florida's Medicaid program paid claims totaling \$16,609,107 for emergency services to illegal aliens. Of that, \$7,469,115 was state general revenue.

Since January 1, 1987, when states first were required to cover emergency services under Medicaid, Florida has incurred costs of \$44,880,532 of which \$20,275,797 is state general revenue. These

numbers are not estimates. They represent actual claims paid in the Medicaid program (spreadsheet attached).

The cost for Medicaid coverage for all non-citizens in Florida since October 1, 1988, has been \$266,134,979. After deducting the state's reimbursement under the State Legalization Impact Assistance Grant, the Refugee Assistance Program and the federal matching share, there is a net state cost of \$70,273,359. (attachment)

The state pays hospitals for unreimbursed charity care through the Disproportionate Share Program in which the counties provide the match for the federal funds. Jackson Memorial Hospital in Miami provided uncompensated care in 1992 of approximately \$180 million. Officials there estimate that one-third of that amount--\$60 million--was for illegal aliens or refugees. Dade County provides approximately \$60 million in match for the Disproportionate Share Program.

Despite these efforts, there will continue to be more than a million people who use the system with no reimbursement. Their costs are borne through higher premiums and increased health care fees paid by people who do have insurance . Every unreimbursed health care dollar spent on an illegal alien is paid for in some way by those Floridians who pay for insurance.

Those of us working to implement Florida's health care reforms believe we are setting an example for others. We believe we have a practical and fiscally sound plan to meet our state's health care needs. All we ask is the cooperation of our federal partners in giving us the leeway to try new ways of allocating resources and in taking their fair share of responsibility for the costs of dealing with illegal aliens for whom Florida is simply the closest shoreline.

Thank you.

Florida Medicaid Expenditures on Illegal Aliens for Emergency Services

<u>Federal Fiscal Year</u>	<u>SSI Related</u>	<u>AFDC Related</u>	<u>Total</u>	<u>Federal</u>	<u>State</u>
10/01/87 - 09/30/88	840,868	545,784	1,386,652	768,067	618,585
10/01/88 - 09/30/89	1,440,145	909,645	2,349,790	1,296,614	1,053,176
10/01/89 - 09/30/90	2,095,203	2,886,808	4,982,011	2,725,160	2,256,851
10/01/90 - 09/30/91	2,332,926	5,761,871	8,094,797	4,408,426	3,686,371
10/01/91 - 09/30/92	2,913,275	8,544,900	11,458,175	6,266,476	5,191,699
10/01/92 - 09/30/93	3,543,799	13,065,308	16,609,107	9,139,992	7,469,115
Six Year Total	13,166,216	31,714,316	44,880,532	24,604,735	20,275,797

Medicaid Expenditures for Non-Citizens

<u>Federal Fiscal Year</u>	<u>Refugee Assistance</u>	<u>SLIAG</u>	<u>Total</u>	<u>Federal</u>	<u>State</u>
10/01/88 - 09/30/89	\$48,452,770	\$5,072,311	\$53,525,081	\$33,395,279	\$20,129,802
10/01/89 - 09/30/90	\$40,389,491	\$12,686,265	\$53,075,756	\$36,197,598	\$16,878,158
10/01/90 - 09/30/91	\$28,675,276	\$21,538,182	\$50,213,458	\$38,534,827	\$11,678,631
10/01/91 - 09/30/92	\$26,769,037	\$27,058,634	\$53,827,671	\$43,939,687	\$9,887,984
10/01/92 - 09/30/93	\$34,073,095	\$21,419,918	\$55,493,013	\$43,794,229	\$11,698,784
Five Year Total	\$178,359,669	\$87,775,310	\$266,134,979	\$195,861,620	\$70,273,359

Mrs. THURMAN. Mr. Chairman, our next witness is chief of police here of the city of Gainesville, Mr. Clifton. Chief Clifton has worked with me on crime issues as it relates to the country and the crime bill.

Chief Clifton, we are glad to have you here again today to testify before this committee.

Thank you.

STATEMENT OF WAYLAND CLIFTON, CHIEF OF POLICE, CITY OF GAINESVILLE

Mr. CLIFTON. Thank you, Mr. Chairman, Congresswoman Thurman.

I do appreciate having the second opportunity in as many months to have input in the Federal process to help us deal with local problems, some of which, excuse me, some of which—is that better?

This is a Mississippi accent, so I hope you can pick this one up—but to help us deal with local problems, in this case, one obviously caused by something outside of the city of Gainesville, Alachua County.

I am sure that Major Eckert was accurate before in his analysis in painting for you the picture of what goes on in Gainesville, Alachua County, the greater Gainesville metropolitan area, so I will be very brief. And let me say that I am not speaking as an official representative of the Florida Police Chiefs Association. I simply did not get that designation before I got here, but I did do my own survey of the chiefs around the State, obviously, in the southern part of the State.

I talked to Director Fred Tatum, Metro Dade. He indicates to me that anywhere from 30 to 40 percent of the inmates in his system at any one time are illegal aliens. In Gainesville, we are seeing somewhat of a different problem.

In fact, just a couple weeks ago, a local newspaper, the Gainesville Sun, a New York Times affiliate, came out with an insert in their paper on what we call the "Outsiders," which I thought was a great service to the community, because I think it goes along with the hidden costs that I heard Major Eckert refer to; and that is the people that we find in the city of Gainesville or in Alachua County in general, that we really don't know where they came from, who they belong to, which nation they are connected with—although we do know that through our own staff, that it is of Jamaican descent, Haitian descent, or Cuban descent, that these people do have some connection with those countries.

And yet, we cannot identify them appropriately, determine whether they are illegal aliens or not. That is one area which from a local perspective, local police agency, we really do need help, in being able to identify, and whether or not we have the appropriate authority to detain, not actually saying arrest, I am not looking for probable cause, but detain at least until we can get INS in to tell us specifically how we should process that.

Obviously, any time you get into those kinds of situations—and I was talking to Director Tatum in Metro Dade, and I have also talked to the chiefs in Broward County, Palm Beach County, all the counties in the southern point, they indicate they get about a 1 to

3-hour delay if it does get into a booking procedure before INS can help them identify if they do have an illegal alien.

Obviously, for a city the size of Gainesville, where we would have only 242 sworn staff, that can be a tremendous strain on our resources. But generally speaking, this is a problem which is becoming more and more a problem to a city and a county which is well in-State, and up in the peninsula and away from the direct shorelines, that I did not see 9 years ago when I first became the police chief of Gainesville.

When I became the chief deputy sheriff for Alachua County 16 years ago, except for some itinerant laborers, we just didn't see that problem. And today from my own staff estimates, something between 5 to 10 percent of the people that we locate are illegal aliens in Alachua County. So, obviously, if it has infused or penetrated this far into the State of Florida, then I can imagine what the Governor has testified to and the other gentlemen on the panel.

Anything that INS can do to at least help us identify and tell us what our procedures are, to get these people help or assist us in not having that burden in Alachua County, would be greatly helpful.

Thank you.

Mrs. THURMAN. Thank you, chief.

Mrs. THURMAN. Mr. Chairman, our next witness is Ed Crapo, who is the property appraiser for Alabama County.

I have known Ed for a long time and he was a valuable resource to me while I was in the Florida Legislature. He is on the intergovernmental board that actually put together the unfair burden report for the State of Florida.

We are very glad to have you here today and look forward to your testimony and the information you have gathered over the last couple of months. And thank you for serving the citizens of Florida on this important issue.

STATEMENT OF ED CRAPO, COUNTY OFFICIAL MEMBER, ALACHUA COUNTY, FLORIDA ADVISORY COUNCIL ON INTER- GOVERNMENTAL RELATIONS

Mr. CRAPO. Thank you.

Good afternoon, Mr. Chairman, Congresswoman Thurman. I appreciate the opportunity to speak to you as a member of the Florida Advisory Council on Intergovernmental Relations. Chapter 93-185, Laws of Florida, directed the intergovernmental affairs policy unit within the Office of the Governor to study the costs incurred by State and local governments and private business for services and programs utilized by what the National Conference of State Legislatures had termed "newcomers."

The State legislation authorized the advisory council to participate in the study. At the request of our members, we adopted the study as one of our projects. Workshops were held in several regions of the State and officials from 12 counties were invited to participate. The results of this study are available in a draft report entitled, "Florida Newcomers, Inventory of Services and Program Costs Incurred by Governmental and Nongovernmental Agencies." Hopefully, your committee already has a copy of this.

Our recommendations were then combined with the information developed by the Governor's office and published as "The Unfair Burden, Immigration's Impact on Florida," which I heard cited several times already this morning.

The testimony of Governor Chiles, Secretary Singletary, Secretary Towey, and others has familiarized you with the numbers which quantify the enormity of the burden here in Florida. Therefore, I will not read a litany of staggering statistics to you. Instead, I would like to concentrate on three recommendations which require some cooperation or action on the part of the Federal Government.

These recommendations have been rephrased and reframed by me and the advisory council may choose in the future to deny authorship of them. They are my way of saying it.

Recommendation one is to seek passage of legislation at the Federal level requiring full reimbursement of immigration-related expenses to all levels of government. To me this is a matter of applying two of the golden rules: First, if you are going to ask me to house and care for what you obligated yourself, then you have an obligation and responsibility to compensate me for doing so. And the second one is rather simplistic, it says, "he who makes the rules pays for the rules."

Recommendation two, would require more accurate record-keeping of the immigrant population. I have purposefully not restricted this recommendation to illegal immigrants.

The advisory council believes there is a great value in knowing the fiscal impact of the Federal Government's immigration policies for all statuses. Perhaps more important is having the data to accurately predict the impact of governmental actions which may either change the eligibility for current benefits of current statuses. Until better reporting occurs, governments at the local, State, and Federal level will be ill-prepared to serve the needs of the immigrant population.

Recommendation No. 3, the communication between State, local, and Federal Governments be increased as it relates to immigration issues, and that all formal agreements necessary to facilitate a cooperative and rational relationship be executed. While I do not wish to limit this recommendation to the criminal justice system, my comments use the system to demonstrate my point.

As I currently understand our relationship, an immigrant may be arrested, tried, and convicted before INS is even notified. Further, even though this may be a deportable offense, INS cannot deal with the defender until after the State releases them as having served their sentence and the INS cannot come into the prison system to hold deportation hearings.

I did hear Secretary Singletary testify that that was not correct. However, that was what we had in our research.

Two points seem worthy of notice for at least some explanation: One, there seems to be the possibility that some convicted immigrants might go straight to deportation and save us all some money as well as some degree of frustration. Two, from my memory of county correction facility records, approximately 85 percent of the population is awaiting trial.

This waiting period is often lengthy. So while local government may be housing an immigrant for some time, INS is totally unaware. INS should be made aware of the arrest in a timely matter. And on the other side, INS should share their records with local law enforcement at the State and local levels so they may accurately do their job.

I don't want to speak without citing at least one quantitative statistic; therefore, I take this from the executive summary of the unfair burden: 1993, the cost of undocumented aliens to the State of Florida is over \$262 million, while the amount expended at the local level was over \$622 million. We believe these are conservative estimates, totaling \$884 million, all for one small sector of the immigrant population.

Two thirds of that money is being borne at the local level, predominantly for education and corrections. The local level normally means the property tax. As the locally elected property appraiser, the taxpayer of course is very near and dear to my heart. I also believe that they are an inappropriate back on which to foist \$622 million of Federal immigration policy.

I thank you for the opportunity to speak today.

Mrs. THURMAN. Thank you.

[The prepared statement of Mr. Crapo follows:]

Good Morning, Madam Chair and members of the committee my name is Ed Crapo and I am speaking to you today as a member of the Florida Advisory Council on Intergovernmental Relations. Chapter 93-185, Laws of Florida directed the Intergovernmental Affairs Policy Unit within the office of the Governor to study the costs incurred by state and local governments and private business for services and programs utilized by what the National Conference of State Legislators termed "newcomers". The same legislation authorized the Advisory Council to participate in the study. At the request of some of our members we adopted the study as one of our projects. Workshops were held in several regions of the state and officials from 12 counties were invited to participate. The results of this study are available in a draft report titled Florida Newcomers: Inventory of Services and Program Costs Incurred by Governmental and Non-Governmental Agencies. Our recommendations were combined with the information the Governor's office had developed and published as The Unfair Burden: Immigration's Impact on Florida. I assume that this report has already been given to the committee.

The testimony of Governor Chiles, Secretary Singletary and Secretary Towey will bedazzle you with the numbers which quantify the enormity of the burden. Therefore, I will not read you a litany of staggering statistics. Instead, I am going to concentrate my brief remarks on three recommendations which require some cooperation or action on

the part of the Federal Government. By the way, these recommendations are rephrased and reframed by me and are not the exact recommendations of the Advisory Council.

Recommendation 1) Seek passage of legislation at the Federal level requiring full reimbursement of immigration related expenses to all levels of government. To me this is a matter of applying two of the "golden rules". First, if you're going to ask me to house and care for what you obligated yourself then you have a moral responsibility to compensate me for doing so. Second, Hee who makes the rules, pays for the rules.

Recommendation 2) Require more accurate record keeping of the immigrant population. I have, purposefully, not restricted this recommendation to illegal immigrants. The Advisory Council believes that there is a great value knowing the fiscal impact of the Federal Governments immigration policies for all statuses. Perhaps, more important is having the data to accurately predict the impact of governmental actions which may either change the eligibility or benefits to current statuses. Until better reporting occurs governments at the local, state and federal level will be ill prepared to serve the needs of the immigrant population.

Recommendation 3) That communication between state, local and federal governments be increased as it relates to immigration issues and that all formal agreements necessary to facilitate a cooperative and rational relationship be

executed. While, I do not wish to limit this recommendation to the Criminal Justice System, my comments use this system to demonstrate the issues. As I currently understand our relationship, an immigrant may be arrested, tried and convicted before INS is even notified. Further, even though this may be a deportable offense INS can not deal with the offender until after the state releases them as having served their sentence and the INS can not come into the prison system to hold deportation hearings. Two points seem worthy of note or at least some exploration. One, there seems to be some possibility that some convicted immigrants might go straight to deportation and save us all the money of incarceration. Two, from my memory of county correctional facility records, approximately 85% of the population will be awaiting trial. This waiting period is often lengthy. So while local government may potentially be housing an immigrant for some time, INS doesn't know. INS should be made aware of the arrest in a timely manner, also INS records should be available to law enforcement at the local and state level so that they may more accurately do their job.

I don't want to present to you without citing at least one quantitative statistic. Therefore, I take this from the Executive Summary of the Unfair Burden, "... 1993, the cost of undocumented aliens to the state of Florida was over \$262 million, while the amount expended at the local level was, totalline

\$884 million for one small sector of the immigrant population. Two-thirds of the money is being borne at the local level, predominantly for education and corrections. The local level normally means the property tax, as the locally elected Property Appraiser this group of tax payers are near and dear to my heart. They are an inappropriate back on which to foist \$622 million of federal immigration policy.

I thank you for the opportunity to appear before you today.

Mrs. THURMAN. The last witness on this is Dr. Warren Ross, executive associate dean of the College of Medicine at the University of Florida. He can back up some of the matters that Mr. Kelley stated about the Medicaid program and how it has had an impact on other hospitals throughout the State of Florida. We have a teaching hospital here in Gainesville that has a policy of not turning anyone away for care. He is also a good old friend.

I am glad that you were able to attend and help us today.

Thank you.

Dr. ROSS. Thank you very much for inviting me, Congresswoman Thurman, and let me add welcome home, also.

Mrs. THURMAN. Glad to be here.

STATEMENT OF DR. WARREN E. ROSS, EXECUTIVE ASSOCIATE DEAN, COLLEGE OF MEDICINE, UNIVERSITY OF FLORIDA

Dr. Ross. Good to see you.

I am going to make my comments somewhat limited and put them from the perspective of a provider, a physician, and a provider within a relatively unique niche of the health care system, namely the academic medical centers that provide, in fact, a disproportionate share of the care that these people require throughout this country.

You have heard figures from Jackson Memorial, and certainly what they do down there in partnership with their colleagues at the University of Miami School of Medicine is extraordinary. It has been recognized nationally on several occasions.

I would like to ask the indulgence of the group for just a minute though, because as I look at this as a physician, I have somehow got to put a human face on this. I would like to take the opportunity very briefly to characterize this group of people again because I have heard a lot of figures and facts and they are all very useful, but after all, when they show up in our emergency room, they are all people and they have certain characteristics that are kind of interesting.

First, they all live with the lethal synergism of social and medical problems. The poor. They have poor housing, they have poor nutrition, they have very high levels of drug and alcohol and tobacco abuse. They are, by and large, frequently working poor which is something we need to keep in mind. These are people who are struggling to gain places in a society that many of them risked their lives to join. They are working poor. They are not simply sitting around trying to do nothing.

They are frequently women and children. The health care services are frequently focused on the women and children, so we can be sure that whatever sins of neglect we may have are going to be visited on all of us in our future generations. They will be passed on. They receive very little in the way of preventive care. But make no mistake about it, they receive care. They just don't receive the right care.

They wait until disaster strikes and they show up in the emergency room, probably the single most expensive place in America to receive health care. So just like many other Americans, and that is really the point that I am trying to make, every characteristic

that I just outlined for you defines the uninsured American just as certainly as it does the illegal alien.

These are the people who are disenfranchised from the standpoint of health care in America. And they currently compete, these two groups, for a very limited pool of resources, health care resources, that are available for those who cannot pay. Although it is a limited pool, it is a pool at least.

My own sense of this is that if we don't acknowledge this problem, if we don't understand the problem, define it and manage it, most importantly manage it, then it is unmanaged growth. Just as in the case of health care in general it is going to deprive us of our opportunity to realize a number of other visions in our society because this is an expense which will grow unchecked.

Let me make just a couple of suggestions from my little perspective. First, pass health care reform legislation. Make health care, in fact, a right for all Americans. Make certain that the pool of people who cannot seek the right health care at the right time is as small as possible so that those of us on the provider end can manage the rest of the people who, in fact, fall outside the system for one reason or another.

Second, I think we have got to look at the health care of these people much as we do everyone else. It is simply not cost effective to leave them outside the system. If we know one thing from our years of study of the uninsured of America, it is that if you want to manage the cost of health care, you better manage their care. Put them in a system where you can finance it in a way that you understand it and then manage their care. Make sure they have primary care physicians, make sure they have nurse practitioners, physician assistants, whatever else you need to manage their care.

Look at the Acorn Clinic model a few miles from here. It serves a large, rural, poor population with mostly nurses and physician assistants with extraordinary affect at very low cost. That is a model that could be promulgated, but you have got to integrate the financing and delivery systems in order to do that.

And finally, I think somehow, at least for those aliens who end up here because they are employed by large businesses, corporations, sugar, citrus, et cetera, we have got to find some responsibility among the employers. If they are going to hire these people, they need to help pay for their health care.

In the end, I think if we don't take the bull by the horns in financing the health care and structuring their care somehow, we will simply have an unmanaged problem that will continue to eat at every other component of the health care system.

Mr. CONDIT. Thank you, Dr. Ross.

Mr. Crapo, you and other people did the same, stated the costs of immigration to the State of Florida. I like your three points and concur with those, your three recommendations.

Mr. Arnett and Mr. Crapo, are any of you—in calculating the costs of illegal immigration on your social programs, did you factor in the contribution, that is Dr. Ross mentioned the working poor, how much they contribute in terms of taxes?

And we get that often in Congress, when we start talking about reimbursement to States and counties, we get a very argumentative attitude that there is a major contribution here that we are

overlooking. And I am trying to calculate what that is and how you calculated it.

Did anyone try to deal with that at all?

Mr. CRAPO. I don't believe our committee tried to analyze that at all.

Mr. CONDIT. You think that is a pertinent factor in terms of determining what reimbursement is?

Mr. CRAPO. I think that is probably a circle on a string of barbed wire. You can say they make a contribution here, but it may offset another contribution that we are having to pay something else for over there. You can get kind of stuck in that, end up in rhetoric without ever getting to the point where you do anything with it.

It may be valuable to try to measure that benefit, for illegal aliens or undocumented aliens under the study that we did, I don't believe—well, for example, the SAWs were expressly excluded from our undocumented alien. So that agricultural benefit would not have been in our numbers. So I am not sure how you would quantify it. Our numbers were extrapolated from other numbers.

Mr. CONDIT. Well, Mr. Arnett, did you, or Mr. Kelley?

Mr. ARNETT. Just one point, Mr. Chairman. I alluded to this briefly. The current META consent decree precludes us now from distinguishing when we enroll students as to what their immigration status is.

But Representative Thurman remembers that from the standpoint of State contributions, one of the problems is even though the State has met its obligation by providing weighted funding for limited English proficient students, Florida's revenue system is driven by a stream largely funded in education by property tax dollars.

We had pretty good information prior to being precluded from distinguishing categories of foreign-born students as to how much property tax revenue was being generated. Clearly, in the case of illegal immigration or refugee students, you have a situation where you have two to three families living per house and clearly they are not contributing to the base in proportion to their cost. That is part of where the gap comes from in the spending, in the spending gap.

Mr. CONDIT. Mr. Kelley.

Mr. KELLEY. Yes, these costs are very tricky.

I first would like to agree with several things Dr. Ross says about not getting preventive and primary care, they come in when there is an emergency. But take the example of a woman who is pregnant, an illegal alien. When the child is born, the child is going to be a citizen. If the child was born—if the mother doesn't get prenatal care, adequate nutrition and so forth, the child can be born and literally there will be \$1 million spent on the child's health care if it is, you know, if it is certain States that we see. And these kinds of numbers—

Mr. CONDIT. Is that not true with also the citizen?

Mr. KELLEY. That is true with the citizen. Just as I said, we have got 2.5 million uninsured, including everybody, not just illegal aliens. And that is part of the whole health care problem, that cost is shifted.

But, for example, as the Governor said, I believe our costs are understated. That is just one of many examples I can give you

right there, where it really would be less money to pay for the prenatal care than it would be to take care of the high-risk preemie.

Mr. CONDIT. I would just caution anyone who would, and I certainly concur, we need health care reform and we are working in the Congress to do that, but I certainly caution people to be a bit leery of pushing it without knowing who is going to pay for it and who is going to get the money, whether you are going to be reimbursed or asked to do more. Because I don't think you can do any more, you can take any more financial burden as a State. I know the State of California can't do that.

In addition to that, the original question I had was to factor in the economic contribution that undocumented make. I just want to throw that out there because that is one of the things that we have to deal with in putting together a policy as it relates to reimbursement to States. We have to either come up with a way of determining what that is, or disproving that it is a factor or not. Because there is a great number of people in Congress who throw that out there. And they deserve an intelligent response.

We have not been able to do that, that is why I ask that question. So if you at any point have additional information, please submit it to the committee.

Chief Clifton, can you please explain in detail the methodology used to determine the number of criminal aliens in the State and local correctional facilities in Florida? Do you know how they do it now?

Mr. CLIFTON. No, I am sorry, I do not. I would think that probably Secretary Singletary could do that, but I don't know those numbers.

Mr. CONDIT. OK.

Mrs. Thurman.

Mrs. THURMAN. Mr. Arnett, you mentioned one aspect of the education funding formula on moving it from \$40 to \$75 million. You talked about that it would only cover for 36 months. What about the other opportunity that was being considered in a funding formula, where it is my understanding now that any State or school district or similar entity, with 500 students or 3 percent of their population, can request some of these dollars. There has been a suggestion that one of the things to do is to change that formula to 2,000 students or 10 percent of their student population. What would be your reimbursement at that level?

This is the Emergency Immigration Assistance Program.

Mr. ARNETT. If I—well, first of all, current—you are right, the current funding formula, there is no formula. The allocation is simply based on how many students you have that fall within that definition. When the money comes through the State to the districts, we are told how much money we have per student, based on how much money we get, divided by however many students we report. So there is no accurate way to determine cost per student.

If you had a formula which somehow recognized the disproportionate impact on a district such as Dade's, I think it would be helpful. I think it would also be helpful again to expand the 36-month timeframe so that districts where students come in who are illiterate in two languages and whose educational needs cannot go

unmet, where we have the opportunity of some guarantee of funding for longer than a 3-year period.

Mrs. THURMAN. Mr. Arnett, let me ask another question. Last week or 2 weeks ago, we had an amendment on the floor that I was concerned about. I and the chairman thought it was an unfunded mandate. We have tried to recognize that problem. I am not even sure that I can tell you word for word what the amendment said, but it dealt with identifying a child as an undocumented alien. It went a step further to where you would have to identify maybe somebody in the household.

From your testimony, it sounded like you would be happy or you would look forward to this identification process. The other side of that would be that you would also like to have the money to do that. Can you offer us any suggestions? Is there a way to carry that out or some way to carry that out?

Mr. ARNETT. I think you are right, I think that is a catch-22 question. I think the only way we are ever going to be able to supply the kind of data that is definitive on categories of foreign-born students is to have the flexibility to do that, which we renegotiated the META consent decree to try to get.

I think the resistance to that is that as a public education system, we are essentially trying to serve—or the presumption is that we are trying by doing that—by asking for that information to somehow supply information circuitously to INS. And as a result, the downside, the argument against it is in addition to the money that we would ask for to do it, the downside is that we have some data to demonstrate this, that the student—there are some families that won't enroll their students in school if they think we are going to ask those kinds of questions for fear that we will report them and somehow some action will be taken against them.

It was for those reasons that we were told no longer to collect that data. Therefore a suggestion, there may be some middle ground that would permit us to at least establish some form of immigration status prior to enrolling the student, perhaps by their going to INS first, but that is not what is happening.

And I said in my testimony, that we are the first point of service impact, it is because the students show up at schools having not been processed, and they are under no obligation other than to tell us whether they are immigrant or nonimmigrants.

Mrs. THURMAN. You would welcome that to be a part of registration or somehow documented?

Mr. ARNETT. Well, because I think to a degree, yes, because—we were doing that for years. We had a foreign student center which was processing students, it was providing—it was done in collaboration with other social service agencies. Students were literally being processed, immunized, and assisted in their applications for green cards and for other immigration assistance, at almost like what you would call a full-service processing center.

But again, because of the resistance of some families to come forward with that information, we have now been legally and by the courts told that we can no longer do it. And we are now processing students in the classrooms directly at school. It sounds—

Mrs. THURMAN. What kind of information did you gather before you were asked to stop? What kind of documentation? I ask this

so that we have some idea as we look at what the INS director had talked about in the way of tracking.

Mr. ARNETT. We used to—we used to be able to determine a student's refugee status, if they were claiming asylum. We used to be able to ask—and we can still ask for visas, but unless a student comes forward and says they are on—says they have, say they have a visa—by the way, if they do that, we are able to charge them a fee for that, so that is another reason for them not to tell us that they are on visas, and we used to be able to subtract those from our total foreign-born population.

In these briefing books that we have been preparing monthly, our data on that is going to become progressively softer as time goes on because since January we have been unable to do that. Whether we—I think it is a philosophical argument and a policy decision on the board's part. If we had that liberty to do it, whether we would go back to it again—because we were literally, you know, litigated out of doing that—and we had the ability to do it, and I think it helped provide—we were doing it not to supply INS with data, but we were doing it to try to determine costs by category of foreign-born student.

Mrs. THURMAN. However, Mr. Chairman, I find it interesting that if we listen to INS in trying to set up an information project in the area of prison population, like the Arizona project, then information such as this from the beginning, we could have an excellent information services network in our computer systems here in the State of Florida. I wonder, has INS ever asked for this information?

Mr. ARNETT. No. We were never in a position—well, they cannot ask for it in the same way that we cannot ask for it. And if we are—if parents do provide it or students provide it upon registration, that information cannot be given to INS.

Mrs. THURMAN. The other issue here for any of you is that on top of lack of reimbursement from the Federal Government in these services, the other problem that hit us immediately is that we have tried to do something about changing some of our payment schedules in general, whether it be Medicaid or others, based on census statistics. The other thing that has happened is we have also been penalized as a State because we were not able to give the full impact to the census.

In fact, we have identified that there has been an undercount, as in California. The undercount is very significant: we lose about \$350 per person that was not counted here in Florida.

Dr. Ross, Mr. Towey, and Mr. Kelley, maybe you can share some of the same faces and the problems you have in the delivery system and the choices that you do have to make; the identity of what happens in the full circle of dollars and how it is spread across a State. We know the impact, we know what is happening to insurance premiums, we understand the indigent health care, the amount of dollars that are being expended in the health care system at all levels, and hopefully, Mr. Kelley, we will work on the Medicaid reimbursement if there is even a Medicaid left.

Dr. Ross, I personally appreciate you putting a face and a thought in our minds of who these folks are. They are real people

and they do have legitimate needs and concerns that we need to face up to as well.

Mr. Crapo and Chief Clifton, anything we can do in trying to identify that information?

Mr. Crapo, can you give us an idea of where this committee goes concerning the impact on the unfair burden. Are there any more scheduled hearings before the advisory council?

Are there any more suggestions that you might be looking at to continue your efforts to keep updated on these issues?

Mr. CRAPO. I think the culmination of our efforts right now are in a bill before the legislature.

Give me a minute, I can find the bill number.

But I think we are, unless called upon to go back, I think we are probably pretty ready to drop that issue. Although the question that the chairman posed might—I will take that back to the committee, that if we have not addressed that before, it might be one that we could perhaps get some type of a feel for.

Mrs. THURMAN. And I would think the other issue is computer systems. We have very good information. And if there was a way to bring back to this committee a way of getting that information to continue, somehow networking to make sure that as implementation of this new program proceeds, they set aside money to implement some of the new kinds of programs. I hope we can come up with some suggestions prior to the tracking issue and make sure that we don't get in the situation of not being able to get our information, which is a big concern that I have in all computer systems.

I note the chairman and I have been working on this through the full committee—the fact that GAO reports and inspector general reports have suggested that one of the biggest problems we have in the Federal Government is that all these computers that sit there and can't talk to each other. It sounds to me that we could end up with the same situation if we don't have input at the architectural stage of our computer systems.

I would hope we can get together and talk about how to input this information into the project to help make your lives a little bit easier here at the State levels.

Mr. CLIFTON. Mr. Chairman, if I can, just for the sake of the record, I think you had asked me earlier about the number of inmates in the Floridian system that are alien. And reading from "The Unfair Burden, Immigration's Impact on the State of Florida," produced by the Governor's office, an ACR, it indicates Mariel Cuban incarcerations in Florida correctional institutions—actually, there are two tables here, table 3-17 and table 3-18, one for the Mariel Cuban incarcerations and one for the other alien incarcerations in Florida correctional facilities.

It indicates something in the order of 658—this is the most recent figure, for 1993, 658 Mariel Cubans and 2,042, with a projection of 4,100 for the upcoming estimate for 1994. So that would be well over 10 percent of Florida's complete statewide incarceration population. Just for the record.

Mr. CONDIT. Thank you, Chief Clifton.

We have some additional questions. If it would please the panel, we might ask you to submit those answers in writing. They may be directed specifically to Mr. Arnett, Mr. Kelley.

And we really appreciate your time here. You have been very patient and you have done a great service to the subcommittee and we appreciate you being here today.

We dismiss you at this time and we will be in contact with you with some additional questions.

Thank you very much.

We have got one last panel that we are going to ask them to come up. And they are not on the agenda but some people have asked to make comments or make statements.

We are going to allow these people the opportunity to do that, with the understanding that we have not seen their script in advance, and so please bear with us.

We, in most cases, receive the testimony of the witnesses well in advance so that we are able to make references to it. So with that understanding—

[Recess taken.]

Mr. CONDIT. Would you introduce yourself, and if you are affiliated with an organization or something.

STATEMENT OF PAT WIHNYK, ATTORNEY, FLORIDA INSTITUTIONAL LEGAL SERVICES, INC.

Ms. WIHNYK. Yes, sir.

My name is Patricia Wihnyk, and I am an active member of the Florida Bar and have been for almost 10 years. And for the past almost 4 years, I have been serving as a staff attorney with Florida Institutional Legal Services, Inc., which is the only nonprofit legal aid organization in the country that I am aware of, that on a continuing basis represents incarcerated aliens at the Institutional Hearing Program.

Because of restricted and limited funding, and our funding comes from the Florida Bar Foundation for this particular aspect of our work, I represent the inmates scheduled for institutional hearings at Union Correctional and Sumter Correctional.

It is my understanding—I was recently asked to speak at the AILA, the American Immigration Lawyers Association, on the issue of representing incarcerated aliens, and at that convention in February, I was advised that our organization is the only one that does that. It is rare that aliens are represented at these institutional hearing programs.

And after listening to the speakers today, particularly Mr. Kleinknecht with, I believe, INS, and with Secretary Singletary, I had some thoughts for the committee and I hope maybe some suggestions and possibly maybe an answer or two.

And I don't mean to sound egotistical in saying that, but I have an intimate relationship with these inmates and with the Institutional Hearing Program, and I can see that there is going to be a lot of concern and confusion regarding who is legal and who is illegal. And I have been doing this particular area of the law for 4 years and I cannot sit here and tell you easily who is legal and who is illegal.

The accounting aspect of that is going to be mind-boggling, to be able to say to the Department of Corrections as they come in: Can you tell us who is legal and who is illegal?

The INS investigator can't tell you that. When I interview—I actually get a schedule from INS as to who will be coming up on the next set of hearings. As legal aid we are allowed to solicit. Immigration finds that we are a very serious help to them in these hearings and that we go out and interview by telephone or in person ahead of time these incarcerated aliens, we collect their documentation from INS. We advise them as to their rights, and when they come before the immigration judges, it is a short hearing.

Whether they are found deportable without any relief, or deportable, and maybe have some type of relief of deportation, the job of the immigration judge and the INS trial attorney is much eased by our representation of the criminal aliens. So whereas lawyers may have a bad name for mucking up the system somewhere else, we certainly ease the burden for immigration by representing these individuals.

I would say that I have to ask approximately 20 questions, possibly interview family members and collect, in some cases, an inch of documentation before we make a final determination whether the person is legal or illegal. I have had clients that I approached and began discussing their situation with them, and after an hour of talking with them they'll say: It doesn't matter that my father was born in Texas and came to the Panama Canal Zone as a military man and I was the result of a woman he met there.

Yes, you are an American citizen. Now let's just prove it. It took me 18 months to prove it, but I did.

My concern is that in the rush to curtail expenditure of funds that we will try to push for deporting these people without any hearing. They are only entitled to one hearing if they are found deportable without relief. If they are found deportable but may have some relief, they have a second hearing. And then the appeal process can begin from there.

It is most normal that they have a couple of different hearings because of the lack of counsel. The immigration judge is bound to advise them that they may be represented, although representation is not appointed for them. And therefore almost every one of them to avoid deportation will say I would like to try to find someone. If they are institutionalized, they won't, but they may find us.

Secretary Singletary said that the only way he has of counting is by the detainers issued by INS. I would say that maybe half those detainers are for illegal aliens, maybe half those are legal. And of those half—and I am speaking from—I don't know if anybody is keeping statistics except me, but I can tell you how many people contact us in a year, I can tell you how many people we represent. We advise and counsel everyone that contacts us, which can be 5 to 10 people a day.

I will request their documents, I will look at their cases, I will talk to their families. I can tell you the percentage from our standpoint for these two regions at DOC. Even more than that, the State, they provide us with—even though we can't represent them in court, we do respond to their requests for information and advice of counsel.

And I can tell you from our office, we closed 85 cases, we actually represented individuals in hearings last year that opened and closed. And out of those 85, we were successful on 46 percent. So

the other 50, whatever, I am not great at math, but the remainder were deportable without relief, and many of those would like to go back to their home country now.

I don't think you would find very much hesitation on the part of those individuals who have been convinced, that they are deportable without relief, that they would like to leave and go back to their home countries, as long as they don't have to continue to serve their sentence. As a private citizen, I have a real concern with that, because if you have a habitual repeat offender, he is going to enter the country illegally again unless we show him that he is going to be punished for what he did. That is with that note.

So you have a problem with counting. I think that is going to continue unless you have somebody, INS or somebody keeping some statistics. And I think those could be broadened to include these two regions, it could be broadened to include the entire State and get at least some handle on how many are illegal and go and how many across the State.

So for counting for right now, you may be held to bed counting. How many did you report, how many were illegal, how many had some relief, how much did it cost us?

I would like to see a great increase in funds for Institutional Hearing Program, to bring more criminal aliens to hearings while they are incarcerated. They almost have a better chance of representation while they are there than they do when they get out, at least as far as the regions we help them with.

I have recently—my office was recently sent a list of 32 pending cases which have been pending for several months or more than a year, that had an initial hearing and haven't had the second conclusory hearing. When they have the second conclusory relief hearing, these persons would either be deportable, or no longer in an illegal state and would be allowed to stay here.

The Institutional Hearing Program doesn't have the funds, the trial attorneys, or the judges to come more than once every 8 weeks, I think, to each of the six locations. You are looking at maybe having 20 to 30 initial hearings and 3 or 4 relief hearings.

So we are only representing two regions, and yet we are backlogging relief hearings. We probably have more than 40 cases pending which we would like to have relief hearings. We would like it if they are heard next week or the week after. We are being told maybe within a year.

These are individuals that are ready for deportation or relief from deportation. It is just a matter of funds coming to INS to be able to enlarge that Institutional Hearing Program.

One thing that I think is extremely important and Congress really has to take note of is you have to fix the Immigration and Naturalization Act. There is endless litigation over some of the vague statutes. In particular, there is a statute 212-Z, which allows relief for individuals, that has recently been restricted, but even the language added by Congress restricting this relief, it has made it almost vaguer and it has been endless, endless litigation.

I, myself, just did a case before the Eleventh Circuit for 14 consolidated individuals, and we ultimately lost, but that cost the tax-payers and everyone else a great deal of money, because I believe

that to be a very vague statute and I am not ever quite sure whether my clients are entitled to relief under that statute.

But there are many other areas, when you talk about who is legal and who is not legal, when you look at all the different aspects of that, I think you really do have to say that it would be a lot easier to determine that and it would be a lot faster to finish deportation proceedings if the act were clearer and if the regulations passed by INS were clearer. And I think that would be helpful.

And last but not least, there has been—my understanding is—we are not a legal service corporation. We have never filed for that because we represent only incarcerated individuals. My understanding, and I have contacted other legal services organizations about picking up individuals who have been transferred to other areas or released and are now residing in another city, is that legal services have a—corporations are banned from representing criminally detained aliens or criminal aliens. They are not allowed under their funding agreements with the Federal Government to take on that sort of representation.

A represented alien is a much—is deported much quicker. It is true. The judge and the INS trial attorney spend a lot less time on that hearing, they spend a lot less time with that individual.

The INS investigators spend a lot less time, because the attorney does it. And when we walk in there and represent that they know their rights, the judge doesn't question them any further.

From my standpoint, I have received personal thanks from the immigration judges in Florida for representing aliens because they travel—the judges and the INS trial attorneys travel and are away from their families 5 to 6 days at a time to do these hearings. This is uncomfortable and inconvenient for them. And they have told me countless times that it is so nice to see that aliens are represented because the hearings go one, two, three, and can be completed without any overtime on their part. And that is always very helpful.

And they would like to see our organization grow, which I am hopeful. We are looking for funds everywhere, to be able to represent these incarcerated aliens, because there are no private attorneys who will do these hearings. And it is very difficult for an immigration judge when somebody is not represented because you might spend 1 hour just detailing somebody's rights, when you can have a hearing over with within 5 minutes. So from cost savings on the government part, that would be good to have us enlarged.

But I would say if you lift the ban on legal services corporations using funds to represent criminal aliens, if you streamline the act, and if somebody begins some sort of statistical back counting to see who was an illegal alien and who won't wasn't, it might be of some assistance to you.

Mr. CONDIT. Thank you very much for your comments. I appreciate the spirit in which they are given.

Just for the record, I would like to just ask you a couple questions. Does your organization receive Federal funds?

Ms. WIHNYK. No, we don't.

Mr. CONDIT. How do the criminal aliens know about your services?

Ms. WIHNYK. Well, a lot of it is by word of mouth. The judges, if they—immigration sends us the list, the master-counter list of those persons who are going to be scheduled. As a legal aid organization, we can solicit. We can go to them, the clients, and say would you like us to represent you.

Because we are of great assistance, the immigration judges insist that we get the list 3 to 4 weeks ahead of the hearings. We contact the Department of Corrections, and set up formal hearings. That is how the person scheduled for hearing hears about us.

The persons who write us 5 to 10 letters a day, requesting services, hear about us through word of mouth. Other inmates recommend us.

Mr. CONDIT. You say that sometimes you have to work several months to determine whether they are illegal or not, they may have some twist that proves that they are legal. What is the percentage of that happening, people that you go and work with? What percentage actually prove to be illegal?

Ms. WIHNYK. Well, we represented more aliens than this, but the actual cases we actually closed and had statistics on were 85. Out of those 85, 46 percent were found to either be—had derived their citizenship one way or another, or obtained relief either through family relationships or their own immigration status. And the rest were found to be deportable without any type of relief.

Mr. CONDIT. And were they deported?

Ms. WIHNYK. No, they are sitting in the Department of Corrections.

Mr. CONDIT. OK.

Just for my own information, do you believe that an individual that has committed an aggravated felony should have the right to stay in the United States?

Ms. WIHNYK. It depends on the situation, and that is where the relief hearing comes in. Aggravated felon status, the statute, the implementation of that to the Immigration and Nationalization Act has made it much tougher for a criminal alien to stay here in the United States.

And I believe that if you enter this country, you should follow its laws, if you don't follow its laws, you should be deported, except in certain exceptional circumstances.

Mr. CONDIT. Can you give me one?

Ms. WIHNYK. OK. You come here at 2 or 3 years old with your parents and you have good immigration status, you are a lawful, permanent resident. And you stay here all that time and your parents have paid taxes and built what is called equity in the country. And you go to school, and for whatever reason you fall into a drug habit or anything that any of our children could fall into. And for whatever reason, you end up armed robbery, it is an aggravated felony.

Almost anything any more is a aggravated felony, to be honest with you. Mere possession of a firearm with no other criminal activity is an aggravated felony, and you are deportable in those cases many times without relief. But I think the relief offered is you have to be a lawful, permanent resident for more than 7 years, you have to have strong equities in the country, and the judge has

great discretion in denying or granting. And most often, I would say probably—I would say probably most often denies.

So you have to show what is called, I can't think of the exact words, but you have to show greater equities in this country once you have committed aggravated felony than if you committed a crime of a less degree. So if you have a burglary of an unoccupied residence and it is not an aggravated felony, you are not going to have to show strong equities and hardships to stay here, as if you had committed an armed robbery. And that is correct.

But that in other ways the law really works against people because—just a quick example is a New York taxi driver who had a fight with one of his fares. He had been here 20 years, put his kids through college, had a home, had his own business, was an independent taxi driver, kept a gun under the seat. He was deportable without relief. That gentleman was deported to his home country after 20 years of paying taxes here because he had—when he was arrested for the criminal mischief or whatever the misdemeanor was that did not make his deportable, his immigration status did not make him deportable, having a gun, registered, under his seat, carrying a concealed weapon, made him deportable.

So in some ways the laws are unjust, but in most ways the Immigration Act works correctly. It just needs to be more efficient and work more quickly.

Mr. CONDIT. Well, your first example hits home and it was a good one, where you talk about a child comes here 2 or 3 years old. I have a large or a significant number of that individuals in that situation in my district where the parents may have come and they work in agriculture, they have a kid, he becomes a high school star, you know, goes to community college, has the documentation to work, so on, so forth. So it is a problem. From my point of view, those kids are citizens that started at 2 or 3 years old. We have to figure out a way to deal with that.

Do you believe that someone who is here illegally, separate from those situations which you mentioned, and commits a felony, should be subject to deportation?

Ms. WIHNYK. Well, they are. They are subject to deportation, first, because they are here illegally. So whether they committed a crime or not, once they are picked up through the Department of Corrections as having—as being an alien who has committed a crime, once their situation is determined as to be illegal, their deportation process is ongoing at that point.

So there was something in the materials I read that said that deportation process won't continue if their case is on direct appeal. That in some situations is true, but if they are truly illegal, it doesn't stop. Because it is not based on the commission, it is based on their illegal entry to the country and they are deported.

Mr. CONDIT. Obviously, INS when they came and testified, talked about someone who comes here illegal, just sneaks across the border, and say they commit a felony, they get put in jail, determined to be illegal, and then someone who comes and does all the paperwork, comes here legally, it just seems to me there ought to be some distinction between the two.

I mean, if you come here illegally, commit a crime, you didn't go through the process and you are proved to be illegal, you didn't go

through the proper steps, you ought to be deported immediately. But the other people who go through all the steps get treated the same; is that correct?

Ms. WIHNYK. No, that is most often not correct. Let me give you a factual example.

If you enter the country illegally, you never adjust your status and you are found because you committed a crime and you were picked up, so you are found, you will be deported after one hearing; maybe two hearings because you may ask for continuance to get counsel. But if you can't, that is it, they give you one continuance.

You come up the next time, they have the documentation that you are illegal and that they have no documentation that you are legal, and you committed this crime which is an additional way of deporting you, you are deported and there is nothing further than that.

If you have been here for a while, you are a lawful, permanent resident, you adjusted your status or your parents did, you have derived through them, then you are entitled to another hearing. That is where you plea before the immigration judge there are reasons that you were incarcerated at this time, there are reasons these things happened to you, and then you have the possibility for relief.

This is where it is fair. One hearing you decide what your case is and you have a certain status, then you go on. The second hearing is only allowed when you have some opportunity for adjustment or relief.

Mr. CONDIT. Mrs. Thurman.

Mrs. THURMAN. Thank you for yielding.

I want to understand something, because I think that many times one of the things we hear is we can't deport illegal aliens.

What is the timeframe that you are suggesting when you refer to the first hearing to the second hearing? Where do you come into the system?

Is it right after they get arrested; is it 6 months after; is it when they have been convicted? At what point?

Ms. WIHNYK. I am not sure how INS—I know INS gets the information from the Department of Corrections and local police departments. But I am not sure then how fast INS moves in putting them into, "litigation." Because when I call and say somebody has written me, wants advice, I talk to the INS trial attorneys who are assigned to the Institutional Hearing Program. And they can advise me at that time whether or not the case has been put to litigation and will be scheduled for a hearing.

The gentleman or ladies that I represent in the hearings are scheduled by INS. And at their first hearing, if I represent them, at their first hearing, we will plea them immediately. And if they are entitled to a relief hearing, it will be—we will request most often that it be almost immediately scheduled. Because, I won't go into it, but time has become a factor now. So we like to expedite and move the hearings along.

INS doesn't have the money or the manpower to come back and do these hearings a second time. And they should be able to schedule more hearings for—more hearings of those who are deportable without relief. Because those individuals can be interviewed and

advised and deported without relief in one hearing on one scheduling.

And it is just, I think, with INS, I am not intimate with their organization other than the trial attorneys and judges I see who work very hard, but they need more money to have more judges and they are asking for that, my understanding is, and more trial attorneys so they can have these hearings.

But you are looking at—they can legitimately, with more money, they can come into the system, get the conviction, within their first year of the prison term have had the hearing to find them deportable without relief, or the two hearings, one to find deportable with some eligibility for relief, and the relief hearing. And I think within a year of coming into the system, with more money being pledged toward INS, you could radically reduce the number of incarcerated criminals.

Mr. CONDIT. Any other questions?

Are they still incarcerated between the first and second hearing?

Ms. WIHNYK. Most often if they are scheduled for release, the Department of Corrections has to release them. And INS has to pick them up. So they go into INS custody. And I usually withdraw from the cases then because many times they are moved out of State, we can't represent them.

But at least those who have had one hearing and are found deportable without relief have the orders of deportation, then can be sent by INS. And we advise our clients to have their travel documents so INS doesn't have to go through that, because in the best interests of my clients, they don't want to be in INS detention any longer than they have to.

And as far as those who already had relief hearing, the first hearing is already over with and they would be scheduled for relief hearing. So the time in INS detention shouldn't be that long either, but then a lack of funds on the part of INS, they can't have those hearings there either unless they have more funds.

Mr. CONDIT. Thank you very much and your testimony is appreciated. Thank you. And you can step back or stay.

Ms. White, do you want to introduce yourself and who you are related to?

STATEMENT OF JILL WHITE, IMMIGRATION ATTORNEY, GAINESVILLE

Ms. WHITE. My name is Jill White. I am a private immigration lawyer in Gainesville.

I have been here for 18 years. I am a former chapter chair of the central Florida chapter of the American Immigration Lawyers Association.

There are probably 300 or more members of our association in central and south Florida—most are in south Florida. I have been on a liaison with the Immigration Service in Jacksonville, a lawyers liaison that meets quarterly with Mr. Angotti, for over 10 years.

I want to congratulate you on the way you conducted the hearing, very impressive witnesses. The State of Florida, of course, had a lot to undergo ever since the Mariel boatlift. We had a lot to think about in terms of the finances of all this.

But in my contact with the Immigration Service, I found that the officers that we meet there are highly professional, they are highly trained, it is a very well-run organization. It is simply under-funded. And it is often thought of last in terms of what Congress and what the government is able to afford.

I agree with Pat that the difficulty in defining who is illegal is going to be a very serious problem in all of this, because you are not just talking about people in prison.

I recently represented someone, concluding a case in Tampa, whose case had been pending for 7 years. During a part of that time, the file was lost. There was a prior deportation proceeding that had been initiated. There were a number of changes in the law during that time, but that is somebody I suppose that under somebody's definition might have been illegal while the case was pending, although he was a legal spouse of a citizen, had citizen children.

Another individual I met recently, had been here for 20 years, and hadn't completed a case because he felt intimidated by the Immigration Service 20 years ago. Other cases of people who were going to have to go out of the country to complete their immigration case because they don't qualify within the United States. Parents of U.S. citizen children, had to wait 2 or 3 years because of the fact that a file containing a petition was lost at one of the service centers and kept being sent back and forth.

Second preference backlog are another thing that one has to look at within the legal immigration system. Spouses of permanent residents are subject to long delays. Adult unmarried children of permanent residents must wait longer. They are going to be here for years before they are qualified. And if they leave, they have no family, they have no other place to go. They are very often making a contribution of some kind here.

We have since 1986 the legalization litigation. There are some massive class actions that have been pending, the LULAC and CSS cases. These are people here who are in kind of legal status, they continue getting their employment authorization cards extended. That litigation is going to be settled sooner or later, but they also are in immigration limbo.

We have the 300,000 people who are in the asylum backlog whose cases haven't been completed. These are also people whose status is unclear. It is not resolved. Are they legal or illegal? It is another problem.

I think one of the things that I am particularly concerned about at this point in time is that probably because of the World Trade Center bombing, unemployment and other issues and events, that at the present point in time, we see a massive amount of immigration legislation pending in Congress.

As of February 23, about 14 bills were pending that just had to do with criminal aliens. There are proposals to restrict 212-C, which is one of the forms of relief that Pat has to deal with. I think Senator Simpson's bill, 1884, is a matter of significant concern for most of us which would operate to reduce legal immigration in the country by perhaps one-third.

There are quite a number of other bills that we have been keeping track of and trying to follow. But I think my main concern, and

what I would like to say to you while we are working on all of this, is that we need to protect legal immigration and to make sure that people who are entitled to be here, and who are going to make a significant contribution to the economy and to education and to the world that we are living in, are protected.

There was an article in the Wall Street Journal this morning on the subject saying that legal immigration does not affect unemployment, and I think it made the point very, very cogently. My main consideration at this point, is that this is a time of antialien sentiment. There is a great deal going on, there is a law pending in Congress, we need to be careful, and we need to be cautious about the people who are entitled to be here.

Mr. CONDIT. We appreciate your testimony.

Just for the record, I would like to ask you, do you receive any Federal funds for representing your clients?

Ms. WHITE. Not at all.

Mr. CONDIT. How do the criminal aliens receive your services?

Ms. WHITE. I don't represent criminal aliens. I do a lot of counseling with people who want to learn about our immigration system. I occasionally have a letter or a call from an institution. Generally, I will either refer them to Pat or I will write them or find a lawyer in another location.

I have found lawyers out in Oakdale for people who had been transported out there. Very often it is a member of their family who is concerned about a case pending and I do attempt to locate other lawyers for them. But most of the people I represent, if I accept their case, are highly qualified, they are often professionals.

Sometimes I am just telling them about the new lottery. There are 55,000 visa numbers that are going to be available under the lottery that was part of the Immigration Act of 1990. It is a strange system that we have but it is interesting and we feel that people deserve to be told what they might qualify for.

Mr. CONDIT. Can I just comment to your statement about all the legislation that has been introduced?

This committee started out last year, the beginning of last year, to look at the Federal immigration policy. And our emphasis simply has been that whatever the immigration policy is, it is a Federal policy. And the Federal Government should take responsibility for it.

If it impacts upon States and localities, they ought to get some consideration and some reimbursement for that. This committee nor myself, the legislation that I have been involved with, has not tried to be deporting people or order fees or any of that kind of thing that you have heard, which may happen because there is a great interest across the country about this.

But our interest has simply been whatever the Federal policy is, we are not at this point judging it good or bad, we are simply saying that whatever it is, if it has an impact on local governments, they have to bear the cost of implementing it, they ought to get some consideration and reimbursement and get the reimbursement. And that is what we cited for the Governor.

I think the Governor, and people like him have been extremely humanitarian when it comes to this issue. They said all we need is the money to provide the programs. That is basically where we

are coming from. So just so you know that. And I don't know that this is going to go away in the short, it might in the long, but not in the short.

Mrs. Thurman.

Mrs. THURMAN. Mr. Chairman, I would like to add to the record my comments.

I would also like to take this opportunity to solicit from Ms. Wihnyk and Ms. White, as you look at this legislation, as you go through the legislation and as you familiarize yourself with that, or as you see some things that we might not be doing right or streamlining, I hope that you would be in contact with us as individual legislators.

I think it is important that we have best information, good concise information. I was impressed with a lot of what you said in how the system works and how it is working or where it may not be working as well. I would hope that as members of this committee and members of this congressional district, that you would consider continuing to give us good input on the issues as they come before you.

Because the chairman is right: it is becoming a battleground in Washington. You have probably seen it, every piece of legislation, there is an amendment on a bill that makes it more difficult. I hope that you contact me or my staff and let us know how that goes.

Mr. CONDIT. Thank you both. You have been very constructive and you should have been on the witness list. Great job.

Ms. WIHNYK. Thank you very much. We read about it in the newspaper, came hoping to have an opportunity to speak.

One quick note toward Mrs. Thurman's comments, I had contact with Senator Simpson's office and Senator Kennedy's office regarding input and questions, and was blown off by both of them. So I am very heartened by your response to some of my concerns, and I will correspond with your office if anything I say might be helpful.

Mr. CONDIT. Thank you very much.

We would also like to acknowledge that the INS representative has been here for the entire hearing. We appreciate that so much. We know that they met with individuals from the panels as they finished their testimony and we appreciate that. That is very helpful.

Thank you.

That concludes the meeting, unless Mrs. Thurman has a closing statement.

Do you have a closing statement you would like to make?

Mrs. THURMAN. Mr. Chairman, I want to thank you for taking your time. I realize that this is a period that you could be in your own State of California listening to your own constituents' concerns, whether it is about this issue or other various issues. My heartfelt thanks goes to you for giving us a bit of your time and energy.

I also would want to thank the staffers here at Santa Fe for help making this hearing run very smoothly. We thank you very much for your cooperation. I think we have received some good information. Certainly, it has given us some good arguments to go back to

Washington in the next 2 weeks on the crime bill, not to mention some good input from the other Governors to the Members of Congress that we need some help. But, again, I really want to thank you for being here today and helping us through this.

I yield back the balance of my time.

Mr. CONDIT. I would like to just add my thanks to Santa Fe Community College for allowing us to use their facilities. It is a great facility and I am delighted and honored to be here.

I would also like to congratulate the Gators.

Mrs. THURMAN. We are in the "final four" now. We are proud of our Gators, aren't we?

Mr. CONDIT. We heard the celebration when we came in last night. We congratulate them as well and wish them a lot of luck.

That completes the testimony.

Let the record indicate that everyone that wanted to speak, got an opportunity to do so.

And this meeting is adjourned.

[Whereupon, at 1:23 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—RESPONSES TO SUBCOMMITTEE QUESTIONS

Gary A. Condit, California, Chairman
Major Owens, New York
Karen Thurman, Florida
Lynn Woolsey, California
(Vacancy)

Craig Thomas, Wyoming
Ranking Minority Member
Danna Ros-Lehtinen, Florida
Stephen Horn, California

ONE HUNDRED THIRD CONGRESS

Congress of the United States House of Representatives Information, Justice, Transportation, and Agriculture Subcommittee of the Committee on Government Operations B-349-C Rayburn House Office Building Washington, DC 20515

(202) 225-3741
FAX (202) 225-3445

June 22, 1993

Mr. Jack Shaw
Assistant Commissioner, Investigations
Immigration and Naturalization Service
Chester Arthur Building
425 I Street
Washington, DC 20536

Dear Mr. Shaw:

Thank you for participating in the Subcommittee's June 2 hearing on the Impact of Federal Immigration Policy and the Immigration and Naturalization Service on Communities. The record of the hearing could be very useful for building a strong case for necessary changes at the federal level and I greatly appreciate your help.

As I stated during the hearing, I have some additional questions and would appreciate obtaining your responses:

1. You testified that part of the criminal alien strategy is to "create an effective deterrent against aliens seeking U.S. entry to engage in crime." The first of this series of hearings held on this issue by my Subcommittee was held in Washington on March 30. A representative of the National Council of La Raza stated, ". . . representatives of the Border Patrol have met with my organization's president, Raul Yzaguirre and have complained and asked for our support. They say that, in the interest of beefing up their apprehension numbers, they are told not to stand or present themselves in such a way as to provide a deterrent to people on the other side of the border who seek to come in, but rather to wait on this side of the border until they come in and then catch as many of them as possible, because that way they get better apprehension statistics."

Is such action approved by Washington? What is INS doing to ensure that this is not happening anywhere in the United States?

2. The General Accounting Office testified at the same hearing that Border Patrol funding increased 82 percent from 1986 through 1991, but the "Proportion of total Border Patrol agent time devoted to border control activities decreased from 71 percent to 60 percent from 1986 to 1991." Since stopping people at the borders is part of your strategy, what has been done to increase the amount of time that the Border Patrol is devoting to border patrol activities?

Mr. Shaw
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3. The International Association of Chiefs of Police and the Department of Justice have held training seminars to train local law enforcement regarding criminal aliens. Two were held in California and as part of the evaluation, participants were asked to make comments about INS. The evaluation report contains the following comment from one of the California participants, "I have a real problem with the fact that you have to cultivate a contact with INS to get someone to respond. . . . I have never been able to develop a contact with INS. This is not because I haven't tried, but I always get the same story: Too busy to do anything for you! Are you aware of this concern? If so, what have you done to eliminate the problem?

4. Another participant recommended that the Regional INS offices set up mini versions of the class, which is called "Responding to Alien Crime," for their area police agencies. Have you done anything like this?

5. You testified about Operation Double Action which was taken to round up aliens who are on parole and have been convicted of serious crimes such as murder and rape. It seems that it would be more protective of the community and more efficient to deport individuals like this before they are placed on probation or parole and allowed to re-enter the community. What is INS doing to make certain that it takes immediate custody and completes deportation action so that no individuals who have committed serious crimes and who are eligible for deportation are released into the community?

6. What is INS doing to find out if there are ways to improve administratively the deportation process?

7. Will there be more Operation Double Actions this year?

8. You described 60 proactive operations targeting violent criminal alien groups, including Asian organized crime groups, within the State of California. During 1992, what were the results? Please be specific as to numbers of convictions and types of crimes.

9. You also testified that during this Fiscal Year and the next, ten immigration judges will be added to increase the government's capacity to handle deportation and exclusion hearings. How many of these people will be in California and what impact will they have?

10. You testified that INS has begun a 1-year pilot project to test the feasibility and efficiency of file centralization, the Criminal Alien File Center. What progress has been made?

11. The Immigration of 1990 required that INS submit a report to Congress regarding criminal aliens. The report is dated April 1992 and contains data regarding the number of aliens incarcerated in Federal and state jails as of 1991. It does not contain a number regarding those incarcerated in local jails. The report states that the data is being compiled. Has this information been compiled? If not, why?

Mr. Shaw
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12. Is INS collecting the data contained in the criminal alien report for subsequent years or was it a "one shot" collection effort?

13. Given the deficiencies in information, what has Justice done to try to obtain useful information regarding the impacts on localities - for example, has anyone in Justice provided guidance regarding methodologies that it would consider acceptable in conducting studies such as the one conducted by the San Diego Association of Governments on the Impact of Illegal Immigration on the criminal justice system? Does INS talk to NIJ about what is needed?

14. One of the recommendations in the San Diego report was that local law enforcement receive training by INS officials in the area of fraudulent INS documents. In the five states which have the largest immigrant populations, why is such training not helpful to the overall INS mission?

15. Another recommendation was that "offenders sentenced to local jail and/or probation potentially could be supervised in Mexico by Mexican authorities." Has INS given consideration to a proposal like this? If so, what were your conclusions?

Thank you for your cooperation. If you have any questions about these questions, please feel free to contact Shannon Lahey of the Subcommittee staff at (202) 225-3741.

Sincerely,



Gary A. Condit
Chairman



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner

425 Eye Street N.W.
Washington, D.C. 20536

CO 703.1056

AMC 27 10/01

The Honorable Gary A. Condit
Chairman
Subcommittee on Information, Justice,
Transportation, and Agriculture
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter with additional questions regarding the Subcommittee's June 2 hearing on the Impact of Federal Immigration Policy and the Immigration and Naturalization Service on Communities.

Enclosed is our response to your questions. If we may provide additional information, please do not hesitate to contact this office.

Sincerely,

Chris Sale
Acting Commissioner

Enclosure

QUESTION #1: You testified that part of the criminal alien strategy is to "create an effective deterrent against aliens seeking U.S. entry to engage in crime." The first of this series of hearings held on this issue by my Subcommittee was held in Washington on March 30. A representative of the National Council of La Raza stated, "... representatives of the Border Patrol have met with my organization's president, Raul Yzaquirre and have complained and asked for our support. They say that in the interest of beefing up their apprehension numbers they are told not to stand or present themselves in such a way as to provide a deterrent to people on the other side of the border who seek to come in, but rather to wait on this side of the border until they come in and then catch as many of them as possible, because that way they get better apprehension statistics."

RESPONSE:

The Border Patrol program recognizes that deterrence of illegal entry is as critical to the Border Patrol enforcement operations as is the apprehension of illegal entrants. Border Patrol field managers balance the deployment of resources between deterring illegal entry and apprehending those that have entered illegally. In FY 1992, the Border Patrol apprehended 1.2 million undocumented aliens that had evaded deterrence operations, over 25,000 of which were found to be criminal aliens. The Border Patrol is unable to estimate the total number of aliens or of criminal aliens that were deterred from entering. No Border Patrol Sector relies solely on deterrence or solely on apprehensions to achieve their enforcement goals.

In Border Patrol training and on duty, the three priorities which are repeatedly stressed are prevention, detection and apprehension. Agents are trained to consider these priorities in that order. For strategic reasons, there are areas where prevention, or deterrence, is not as optimal an alternative as apprehension. This may be the case where, due to the terrain, having agents patrol directly on the border may expose them to immediate danger. Officer safety must be of concern. Further, agents exposing themselves may be strategically unwise as their presence in one location may indicate that there are no agents covering other crossing points. Subsequently, agents sometimes rely on concealment to optimize operations. However, as prevention is the first priority, there are many locations where agents patrol directly adjacent to the border on roads, levies or irrigation channels in an effort to be immediately visible to deter those who wish to cross illegally. Striving for higher apprehension statistics, however, is not the reason for not patrolling the immediate border area.

QUESTION #2: The General Accounting Office testified at the same hearing that Border Patrol funding increased 82 percent from 1986 through 1991, but the "Proportion of total Border Patrol Agent time devoted to border control activities decreased from 71 percent to 60 percent from 1986 to 1991." Since stopping people at the borders is part of your strategy, what has been done to increase the amount of time that the Border Patrol is devoting to border patrol activities?

RESPONSE:

In passing the Immigration Reform and Control Act (IRCA) of 1986, the Congress levied significant new workyear requirements on the INS, including the Border Patrol program. Considerable workyears were diverted to the employer education phase of the program. Border Patrol workyears available for border control activities were further reduced as the program allocated workyears during the outyears to the recruiting, hiring and training of IRCA authorized Border Patrol Agent positions. The Border Patrol was able to maintain a strong enforcement posture during this period, apprehending over 1.6 million aliens in 1986; 1.1 million, 969 thousand, 891 thousand, 1.1 million, 1.1 million, and 1.2 million aliens in FYs 87, 88, 89, 90, 91 and 92 respectively.

The Border Patrol has increased its commitment to border control activities through prioritization of border control activities and policy directives emphasizing the primacy of border control activities in the Border Patrol's border control strategy.

QUESTION # 3:

The International Association of Chiefs of Police and the Department of Justice have held training seminars to train local law enforcement regarding criminal aliens. Two were held in California and as part of the evaluation, participants were asked to make comments about INS. The evaluation report contains the following comment from one of the California participants. "I have a real problem with the fact that you have to cultivate a contact with INS to get someone to respond. . . . I have never been able to develop a contact with INS. This is not because I haven't tried, but I always get the same story: Too busy to do anything for you!" Are you aware of this concern? If so, what have you done to eliminate the problem?

RESPONSE:

The very purpose of the training sessions is to apprise local law enforcement personnel of the types of cases to which INS can and will respond, given adequate resources. Seminars have been completed recently in New Orleans; Atlanta; Washington, D.C.; Los Angeles; and San Francisco. Seminars are currently scheduled for September 8 and 9 in Dallas, and September 22 and 23 in Seattle.

QUESTION #4:

Another participant recommended that the Regional INS offices set up mini versions of the class, which is called "Responding to Alien Crime," for their area police agencies. Have you done anything like this?

RESPONSE:

The INS is not planning to establish a mini version of the "Responding to Alien Crime" program. This training program was developed jointly by the International Association of Chiefs of Police (IACP) and the INS under a Bureau of Justice Assistance grant. The IACP has funded all aspects of the program from the BJA grant. The IACP has also been responsible for coordinating all aspects regarding the promotion, travel, and training site arrangements for the program. The INS Investigations Division does not have sufficient funds to present mini versions of this program in large numbers.

QUESTION # 5:

You testified about Operation Double Action which was taken to round up aliens who are on parole and have been convicted of serious crimes such as murder and rape. It seems that it would be more protective of the community and more efficient to deport individuals like this before they are placed on probation or parole and allowed to re-enter the community. What is INS doing to make certain that it takes immediate custody and completes deportation action so that no individuals who have committed serious crimes and who are eligible for deportation are released into the community?

RESPONSE:

We agree that it is more protective to the community and more efficient to deport criminal aliens before they are placed on probation and parole. Special agents monitor state penal institutions and major county jails to ensure aliens are immediately taken into INS custody upon their release. However, there are instances where a criminal alien passes through the penal system undetected. Such instances may result from a circumstance beyond INS control. For example, the courts may fail to refer an individual to INS or an alien may falsely claim to be a United States citizen. In addition, the lapse may be the result of clerical or reporting errors within the criminal justice system. We are doing everything possible to prevent these occurrences and to ensure that criminal aliens are not released to the community. Double Action-type operations are excellent initiatives to apprehend those who have avoided detection in the criminal justice system.

QUESTION #6: What is INS doing to find out if there are ways to improve administratively the deportation process?

RESPONSE:

Both the Immigration and Naturalization Service (INS) and the Executive Office for Immigration Review (EOIR) are working on regulations that will ultimately streamline the mechanism for admissibility of documentary evidence in immigration court proceedings. Current Federal regulations require that official records be certified by the custodian of record or his designee. Such records are often difficult to obtain.

The INS continues to pursue avenues for a more expeditious hearing process for criminal aliens to reach areas where there is no existing Institutional Hearing Program (IHP) site. A pilot project for telephonic hearings of incarcerated aliens was recently started at Marion County Jail in Portland, Oregon. If this program proves successful, it may be expanded as appropriate.

Representatives of EOIR, Bureau of Prisons (BOP), and INS meet regularly at INS Headquarters (HQ) offices in Washington, D.C. to discuss new initiatives for both Federal and State criminal alien programs and improvements that can be made to existing programs.

Currently, the INS is installing a computer system in the Federal Correctional Institution at Oakdale, Louisiana. This system has the capability of interfacing with the BOP computer system. It should greatly enhance the ability of the Service to expeditiously process deportation cases.

The INS is studying and implementing new ways of obtaining travel documents for repatriation to countries that have typically hesitated or refused to issue travel documents for their nationals. For example, INS is working with U.S. Customs to ensure that passports and other evidence of citizenship are being turned over to INS (as opposed to being held by Customs), immediately upon the arrival of the alien into the United States.

QUESTION # 7:**Will there be more Operation Double Actions this year?****RESPONSE:**

Operation Double Action proved to be an effective means of protecting the public by removing a significant number of criminal aliens from the nation's streets. It also resulted in a considerable saving of state probation and parole funds. Despite these measures of success, the INS is not planning similar field operations for the remainder of Fiscal Year 1993 due to a lack of financial resources.

QUESTION # 8:

You described 60 proactive operations targeting violent criminal alien groups, including Asian organized crime groups, within the State of California. During 1992, what were the results? Please be specific as to numbers of convictions and types of crimes.

RESPONSE:

Proactive investigations conducted in California during 1992 resulted in approximately 95 prosecutions and more than 55 convictions. Many of these operations continued into 1993 and the convictions are not reflected in the 1992 data. These proactive operations included:

- Organized Crime Drug Enforcement Task Force investigations, which target complex, multi-national narcotics trafficking organizations;
- Violent Gang Task Force investigations, which focus INS enforcement efforts on criminal alien gangs engaged in a variety of serious criminal activity;
- Major investigations of criminal organization investigations which target large scale criminal enterprises operated by and/or for aliens and involved in such crimes as fraudulent INS document manufacturing (altering, counterfeiting), reentry of convicted aggravated felon after deportation, alien smuggling, illegal possession of a firearm by an alien, as well as such non-INS violations as drug trafficking, money laundering, extortion, prostitution, and firearms trafficking; and,
- short-term field operations targeting small-scale, localized groups of criminal aliens.

QUESTION # 9:

You also testified that during this Fiscal Year and the next, ten immigration judges will be added to increase the government's capacity to handle deportation and exclusion hearings. How many of these people will be in California and what impact will they have?

RESPONSE:

The geographic placement of immigration judges is controlled by the Executive Office for Immigration Review (EOIR), a self-contained entity within the Department of Justice that is completely separate from the INS. The EOIR would be best able to address this question.

QUESTION # 10:

You testified that INS has begun a 1-year pilot project to test the feasibility and efficiency of file centralization, the Criminal Alien File Center. What progress has been made?

RESPONSE:

On May 3, 1993, the Criminal Alien File Center (CAFC) was established in Laguna Niguel, California. The CAFC is fully staffed and has all automated data processing systems installed. A schedule for file transfer has been sent to appropriate INS offices. The center is receiving and sending files. Initial assessments and comments are positive. However, it is too early in the one year pilot project to comment on the overall effectiveness.

QUESTION # 11:

The Immigration Act of 1990 required that INS submit a report to Congress regarding criminal aliens. The report is dated April 1992 and contains data regarding the number of aliens incarcerated in Federal and state jails as of 1991. It does not contain a number regarding those incarcerated in local jails. The report states that the data is being compiled. Has this information been compiled? If not, why?

RESPONSE:

These figures are still being consolidated. Some of the data has been entered into a special data base. Due to a critical shortage of support personnel, the data is being entered in slowly. Therefore, INS cannot estimate when the data entry phase will be completed.

QUESTION # 12:

Is INS collecting the data contained in the criminal alien report for subsequent years or was it a "one shot" collection effort?

RESPONSE:

As originally intended, the collection of data for the criminal alien report was a one time occurrence. Data collection on this scale is a labor-intensive effort. The INS does not have the financial and personnel resources to mount such a project on an ongoing basis. Further surveys would best be conducted by the Bureau of Justice Statistics due to their expertise in conducting extensive surveys for the U.S. Bureau of Prisons.

QUESTION # 13:

Given the deficiencies in information, what has Justice done to try to obtain useful information regarding the impacts on localities - for example, has anyone in Justice provided guidance regarding methodologies that it would consider acceptable in conducting studies such as the one conducted by the San Diego Association of Governments on the Impact of Illegal Immigration on the criminal justice system? Does INS talk to NIJ about what is needed?

RESPONSE:

As this inquiry concerns Department of Justice (DOJ) policy and procedures, it should be directed to DOJ for response.

QUESTION # 14:

One of the recommendations in the San Diego report was that local law enforcement receive training by INS officials in the area of fraudulent INS documents. In the five states which have the largest immigration populations, why is such training not helpful to the overall INS mission?

RESPONSE:

With appropriate funding, an effective uniform training program on characteristics of genuine, altered, and counterfeit documents could be established and presented to local law enforcement by local INS officers. Such training has been provided informally in the past and continues today at the local level in a many locations. Local law enforcement has benefitted from the training, as has the overall mission of the INS. The training has given local law enforcement agencies a realistic view of INS capabilities and priorities, as well as technical knowledge about immigration documents. Such training also fosters our liaison efforts with outside law enforcement entities and enhances the INS anti-fraud mission. The training may prove beneficial in the enforcement of the provisions of Section 274 C of the Immigration Act of 1990 (i.e., penalties for document fraud).

QUESTION # 15:

Another recommendation was that "offenders sentenced to local jail and/or probation potentially could be supervised in Mexico by Mexican authorities." Has INS given consideration to a proposal like this? If so, what were your conclusions?

RESPONSE:

On November 25, 1976, the Treaty Between the United States of America and the United Mexican States on the Execution of Penal Sentences was signed by both governments in Mexico City. The treaty was subsequently ratified by the United States Senate and Mexico, and entered into force on November 30, 1977.

The treaty provides that "Sentences imposed in the United States of America on nationals of the United Mexican States may be served in penal institutions or subject to the supervision of the authorities of the United Mexican States".

The treaty also provides "Nothing in this Treaty shall prevent an offender from submitting a request to the Transferring State for consideration of his transfer. If the Authority of the Transferring State finds the transfer of an offender appropriate and if the offender gives his express consent for his transfer, said Authority shall transmit a request for transfer, through diplomatic channels, to the Authority of the Receiving State."

The treaty is administered by the Office of Enforcement Operations, Criminal Division, of the Department of Justice.



HUMAN SERVICES AGENCY

2115 WEST WARDROBE AVENUE
 MAILING ADDRESS P.O. BOX 112
 TELEPHONE (AREA CODE 209) 385-1000
 MERCED, CALIFORNIA 95341-0112

Eligibility Services
 Social Services
 Administrative Services
 Project Planning
 Refugee Services
 Public Conservator

JOHN CULLEN
 Director

July 13, 1993

The Honorable Gary Condit, Chairman
 Information, Justice, Transportation,
 and Agriculture Subcommittee
 B-349-C Rayburn House Office Building
 Washington, D.C. 20515

Dear Congressman Condit:

Once again thank you for the opportunity to participate in your Information, Justice, Transportation, and Agriculture Subcommittee hearing held in Merced on June 2, 1993. I have reviewed the attached record of the hearing and have made a few editorial changes which are attached. Additionally, I have answered the supplemental questions that were included in your June 22, 1993, letter.

The following are my responses to each of your items.

Item 1 - The county has never had a say as to how many refugees are resettled in this community. Part of the problem is, of course, that local government is seldom, if ever, consulted regarding resettlement. However, in Merced County most of our refugee population is here due to secondary versus primary migration. I definitely believe that local governments should be consulted prior to granting a refugee's request in selecting that area as a primary resettlement site.

Item 2A - In California the county pays approximately 2 1/2 percent of the AFDC grant costs and approximately 15 percent of the administrative costs. The \$22 million figure quoted in my testimony includes approximately \$700,000 county funds. In years past, the county's sharing ratio has been much higher.

Item 2B - All of the Southeast Asians (Hmong, Lao, Mien) in Merced County are here due to federal resettlement policies.

Item 3A - The fiscal impact of Cash and Medical Assistance (CMA) being reduced and/or eliminated is that Merced County government would have anywhere from 20-40 cases per month requiring assistance. The cash assistance would run approximately \$100,000 per year, and the medical care could be much higher, depending on clients' medical needs.

Congressman Gary Condit
Testimony on Immigration

July 13, 1993
Page 2

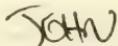
Item 3B - SLIAG funds were passed through to Merced County, but not without serious time delays and excessive claiming requirements. I would suggest that SLIAG and RCA funds be advanced to counties in the future.

Item 4 - Linkage of federal domestic services funding should be linked to total primary migration for federal budgeting purposes. However, specific allocation methodologies should take into account the total number of refugees and/or per capita impact within a geographical area. In this way, allocation of funds would count total refugee impact including initial as well as secondary migrations.

Item 5 - A reasonable level of self-support and independence can be determined by identifying the "dependency rate" within a geographical area for various populations. In the case of Southeast Asians, 85 percent of all that are in our area are on some form of public assistance. This is 55 percent above the dependency rate of the other populations in our community. One method, by which to "time limit" federal funding, would be to use this dependency measure to determine whether or not the refugee group is still inordinately dependent.

Once again, thank you for the opportunity to provide input as you deal with federal policies on immigration and refugees.

Sincerely,



John B. Cullen
Director

cmp

Attachment



DEPARTMENT OF PUBLIC HEALTH

POST OFFICE BOX 471 · 240 E. 15TH STREET
MERCED, CALIFORNIA 95341-0471

MICHAEL FORD, M.P.H.
Director of Public Health

INFORMATION
365-7710

ADMINISTRATION
365-7700

LABORATORY
365-7707

PERSONAL HEALTH SERVICES
365-7710

ENVIRONMENTAL HEALTH
365-7391

365 E. 13th Street

LOS BANOS OFFICE
626-1340
415 F Street

July 9, 1993

The Honorable Gary Condit, Chairman
Subcommittee on Information, Justice,
Transportation and Agriculture
B 349-C Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Condit,

As a follow-up to my testimony before your subcommittee, you posed several additional questions to me regarding payment for health services for undocumented residents. The following responses are provided:

1. In your testimony, you state that federal migrant funding provides for screening of immigrant children in community health centers but not for the treatment of abnormal conditions. Who pays for the treatment?

Payment for treating "new abnormal conditions identified in undocumented migrant children and those with temporary visas at well child exams is usually made with Proposition 99 Tobacco Tax funds made available to each County. Use of the funds is mandated by State law (AB 75 and 1154) for treatment of all uninsured children who receive Child Health and Disability Prevention Program (CHDP) well child exams. These are limited funds which do not cover all the needs identified and require administrative handling at the county level. The Merced County Department of Public Health and the migrant camp screening clinics provide for health problems, but not direct treatment. These children usually obtain follow-up care at clinics associated with the county hospital, rural health clinics, or federally qualified health clinics and there is neither direct nor complete payment for services in these settings.

Refugee and legal permanent immigrant children usually have MediCal coverage for their health care.

Children with medically-eligible catastrophic conditions are eligible for the California Children's Services (CCS) Program. Parents are questioned about county residency only and not legal immigration or citizenship status per current program policy set at the State level. Children who are not MediCal eligible do not have further screening about legal residency status.

2. Are there many undocumented residents that do not meet Medicare eligibility requirements?

Undocumented residents do not meet Medicare eligibility requirements. Only those with five (5) continuous years of legal residency immediately prior to the month of application, 65 yrs. of age or older, and able to pay \$257.60 would qualify for Medicare.

If undocumented residents meet the financial needs qualifications, as established by the State, they may qualify for MediCal for emergency and pregnancy related services only. MediCal has defined emergency care to exclude many of the minor conditions that are treated in Emergency Departments.

3. Who pays for emergency services of these individuals?

The emergency services of undocumented residents may be paid by MediCal if the individual has obtained coverage for that type of care. A deposit for services is usually requested by the provider from the individual, but care would not be denied in a true emergency. Counties are authorized to divide another portion of the Proposition 99 Tobacco Tax funds for treatment of non-reimbursed medical emergency care among the various health care institutions, pharmacies and physicians. These funds provide for only a part of this care.

Disproportionate share funding, through MediCal, helps hospitals, primarily county hospitals, to compensate for part of the non-reimbursed emergency care for the indigent who primarily utilize these facilities for care. After all of these payment sources are exhausted, the care becomes bad debt or uncompensated care for the providers.

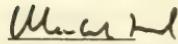
4. Do you have any problems in obtaining Medicare assistance?

Individuals can obtain Medicare assistance by contacting the local Social Security office or calling toll-free numbers. Obtaining MediCal coverage is a more significant problem for Department of Public Health Services. Progress has been made by placing eligibility workers in more community sites, but in certain areas, such as Los Banos, the waits for obtaining coverage can be two or three months. There are no eligibility workers currently within the Department of Public Health clinic settings. There is a cost associated with having those workers present on site which is not currently within the budget capabilities of the Health Department.

I wish to thank you again for the opportunity to testify before your committee on this issue. I also want to re-emphasize, again, the need for funding for capital expansion and building infrastructure needs to serve this growing population.

If I can be of further assistance to you, please let me know.

Sincerely,


Michael Ford, M.P.H.
Director of Public Health

MF:sjw

APPENDIX 2.—STATEMENTS SUBMITTED FOR THE RECORD

Board of Supervisors
County of Los Angeles

MICHAEL D. ANTONOVICH
SUPERVISOR FIFTH DISTRICT

Testimony of
Los Angeles County Supervisor Mike Antonovich
Congressional Subcommittee on Information,
Justice, Transportation and Agriculture
regarding Immigration
August 31, 1993

Good Morning. I want to first thank the Subcommittee for holding your hearing in Los Angeles on this explosive issue of illegal immigration and for the opportunity to share my views with you.

As a County Supervisor, I have seen first hand the catastrophic fiscal crisis and devastation that illegal immigration has had on our community and local government. Over the past 10 years I have visited Washington D. C. numerous times to meet with each of the administrations, legislators and immigration officials on this very issue.

In July, I met with Senators Dole, Simpson, Dominici, Nicholas, Bennett, Thurman and Feinstein and Congressmen Moorhead, and Gallegly, and an assistant for Congressman Beilenson to convey this crisis.

As public officials and legislators we share a common responsibility to develop policies which preserve the quality of life in our communities while ensuring the safety of our citizens.

rich mixture of people that make our country strong and free must continue to prosper. However, illegal immigration is a violation of federal law and an affront to all those who have waited patiently to enter our nation legally and to those who continue to wait their legal turn.

The continuing influx of illegal immigrants must be stopped. The costs to Los Angeles County as a result of the growing tide of illegal immigration has reached catastrophic proportions. The taxpayers' cost for health, welfare, education and law enforcement involving illegal immigration has soared to \$1.5 billion per year and is climbing.

These costs have a direct adverse impact on every legal resident of Los Angeles County, and we are not alone--similar costs and disruptions are occurring statewide. In fact, all 58 California counties are on record asking the federal government to control the border.

Simply stated, the federal government's failure to enforce immigration policies are causing economic and social disaster. Looking first to criminal aliens, costs have become insurmountable. Our state is 185% over capacity in its prison population. Illegal aliens account for approximately 24% of the total population at a cost of \$21,000 per inmate annually.

In Los Angeles County alone, criminal aliens cost our criminal justice system \$135.7 million annually. Criminal aliens comprise 11% of the county jail population, with a recidivism rate of over 50% -- this contributes to jail overcrowding and court backlogs.

Total AFDC costs exceed \$400 million to children of undocumented immigrants -- that's one-fourth of all children on AFDC, and a four-fold increase since 1988. Last year alone, there was a 12.8% increase in the number of citizen children of illegal aliens receiving AFDC. This accounts for 83% of the caseload increase. Unbelievable as it may sound, this figure is expected to reach \$1 billion by the year 2000!

In our county health care system . . .

- Approximately 25% of county patients are illegal, contributing to hospital overcrowding; and
- 63% of the births in county hospitals, or 1 out of every 140 babies born nationwide, are to illegal immigrant mothers.
- The cost for Los Angeles County to provide health services to illegal aliens is a staggering \$196.1 million.

Our educational system is also feeling the pinch of illegal

immigration as undocumented immigrant children and the citizen children of undocumented parents are costing local school districts over \$1 billion annually.

In other words, costs to provide services to the illegal alien population exceed revenues paid by them by \$364 million!

For those who say that illegal immigrants pay more in taxes than in services they consume, a recent report sponsored by all 5 L.A. County Supervisors found that illegal alien taxpayers pay the least amount of taxes - an average of \$1,617 a year compared to . . .

- \$2,296 for amnesty persons,
- \$3,731 for recent legal immigrants, and
- \$9,073 for the rest of the county's population

Further, taxes paid by this group reach the federal government, but are never returned to the counties and cities who are paying the enormous costs for services.

We cannot continue to bear the burden of serving people who have broken our laws to come to this country illegally. Our first priority is to care for the people who are here legally, who are disadvantaged and cannot receive services because of insufficient funds . . . or because hospitals are so overcrowded.

We must work together, at all levels of government to blaze

a trail of reform and restore fairness and accountability to our immigration policy.

Congress must pass legislation to:

- Enact tamper-proof green cards;
- Institute a border crossing toll charge which would be a user fee to pay for additional border patrol officers and customs officers
- Expedite the deportation of illegal aliens
- Place an INS judge full time in county jails
- Immediately deport illegal aliens who are trying to enter the U.S.
- Consolidate INS and Customs
- Increase the Border Patrol
- Establish a Border Patrol Reserve Force
- Authorize the National Guard to assist the Border Patrol
- Develop a work permit system for those jobs which legal residents cannot fill
- Reimburse counties and cities for costs attributable to undocumented aliens
- Establish joint powers agreements with INS and local law enforcement and transit agencies

- Establish an '800' number for employers to verify social security numbers for employment purposes
- For those children born here to illegal aliens, consider deporting the family with a provision that at the age of 18 the child can choose citizenship between the United States and his native country.

Also, I urge Congress to ease the burden of imprisonment of criminal aliens at the local level by transferring criminal aliens from local jails to federal detention facilities.

Finally, Congress must enact legislation to assume control of our borders and pay its share of the costs of providing services to those here illegally.

In closing, to those who continue to apologize and defend illegal immigration, they should have the courage of their convictions and work to repeal the immigration law. However, they will fail with this extremist approach because Americans of every ethnic background support the law. They can't have it both ways. If they support immigration laws, then they should support the enforcement of those laws.

If Congress fails to act, we will continue along the way of

the country singer Tom Lear's song titled, "Sliding Slowly Down the Razor Blade of Life." But Congress has the opportunity to enact the necessary reforms to stop this violation of federal law.

Two other points--when Congress makes a list of agencies to be excluded from additional budget cuts, they include the military and the FBI. This list should also include the INS.

Second, Congress also needs to work to stop foreign residents from coming here for medical treatment. (Please see attached)

Thank you.

The following two cases presented at Harbor-UCLA Medical Center's emergency room. According to staff, both individuals knew they had heart disease. Both had had angiograms in their country of origin and brought the films with them.

Patient:

Tourist from Egypt
Admitted: 5-25-93
Surgery: 6-8-93
Discharged: 6-18-93
Returned for outpatient visits 6-22, 7-13, 7-26

Brought to Harbor by his son who lives in Santa Monica.
Patient requested the Ability To Pay program.
Charges: \$83,156

Note: Patient's ability to pay was 0, therefore, county paid total amount of charges

Patient:

Tourist from Iran
Admitted: 3-24-93
Surgery: 3-30-93
Discharged: 4-7-93
Returned for outpatient visits 5-3, 5-4

Note: Patient's ability to pay was 0, therefore, county paid total amount of charges
Brought to Harbor by friends who live in Rancho Palos Verdes.
Patient requested the Ability To Pay program.
Charges: \$48,256

total county liability for the above 2 cases is: \$ 131,412

Statement of the
Department of Justice
Concerning the
Prisoner Transfer Program

To be presented to the
House of Government Operations Committee
Subcommittee on the Information, Justice,
Transportation and Agriculture

Tuesday, August 31, 1993
Los Angeles, CA

Mr. Chairman, and distinguished members of the Subcommittee on Information, Justice, Transportation and Agriculture:

I am pleased to offer this statement on behalf of the Department of Justice explaining the International Prisoner Transfer Program and its application to the states.

The implementation of the Sentencing Guidelines and the eradication of parole in the federal system has resulted in an increase in the number of foreign nationals applying for transfer from the United States to their country of origin. The United States is a signatory to a number of bilateral treaties and a multinational convention encouraging the transfer of convicted foreign nationals to prisons in their home country. Through these treaties it is possible to transfer a foreign national, as soon as his or her sentence is final, to his or her country of origin in order to serve the sentence. The Department of Justice believes that this program may be useful in relieving federal and state prison overcrowding.

In 1977 and 1978 the United States entered into its first bilateral Prisoner Transfer treaties with the border countries of Mexico and Canada. Since that time, the United States has entered into bilateral treaties with Bolivia, France, Panama, Peru, Turkey, and Thailand and has become a signatory to the European Convention

on the Transfer of Sentenced Persons which involves more than 30 European countries. Prisoner Transfer implementing legislation is codified at Title 18, United States Code, Sections 4100-4115. The Prisoner Transfer Program is administered by the Criminal Division, Office of Enforcement Operations, International Prisoner Transfer Unit (IPTU).

Each prisoner transfer treaty requires that the United States, the foreign government and the prisoner consent to the transfer. Each prisoner must have a verification of consent hearing before a US magistrate prior to transfer. Counsel is provided to indigent prisoners for the purposes of this hearing. If the magistrate determines that the prisoner has voluntarily consented to the transfer, his consent is deemed irrevocable. Once transferred to the foreign country the prisoner's US sentence is administered in accordance with the laws of the foreign country.

A transfer is usually initiated by the prisoner, although under some treaties the foreign government or the United States government may initiate the transfer request. Incarcerated foreign nationals are advised by Bureau of Prisons personnel that they may be eligible for transfer and to contact the case manager when they are designated. The case manager then gathers the necessary documents: application form (if required), judgment and conviction order, all institutional reports and any other documents that may be pertinent to the transfer. This package is then forwarded to

Bureau headquarters where it is reviewed for completeness and forwarded to the IPTU. The IPTU then processes the application which involves obtaining information from the prosecutor and the law enforcement agency involved in the case, obtaining a criminal history and all other pertinent information. Once completed, the package is forwarded to decide whether transfer is appropriate. This decision involves determining whether or not there is a fine outstanding, whether restitution is owed, whether this person has sufficient ties to the foreign country (i.e. has he been in the US for most of his/her life?), what rehabilitative or humane purpose would be served by this transfer, whether there are fugitives in this case, whether the prisoner may be needed in other cases, whether the prisoner has cooperated with authorities, and whether the prisoner is a repeat offender or was engaged in terrorist activities.

State prisoners are required to submit transfer applications to the appropriate state program administrator. The prisoner's application and records are then reviewed by the state to determine if he or she is eligible for transfer. If the prisoner meets the eligibility requirements and is approved for transfer by the state, the administrator forwards the appropriate forms to the IPTU for further processing, review and federal approval or denial of the application. State approval of a state prisoner's transfer request is a prerequisite to federal review of said request.

Each state has, together with the Federal government, the receiving country, and the prisoner, the right to veto any proposed prisoner transfer. This right is in accordance with the treaties and the implementing legislation. Additionally, states are granted the discretion to evaluate potential transfers on a case-by-case basis. As is the situation with many federal transfer cases, the state may have a legitimate interest in ensuring that certain prisoners serve their assigned sentences in the state. International prisoner transfer treaties and implementing legislation in no way encroach on this state prerogative.

In response to the issue raised with respect to the ninety-eight (98%) of California State prisoners who were determined not to meet treaty criteria, it should be emphasized that the Department of Justice did not deny transfer in these cases. Since 1988, the Department of Justice has denied transfer requests of only four (4) California prisoners. It appears that the State of California determined that the prisoners did not meet treaty requirements based on its interpretation of the treaty as well as its own regulation that prohibits the transfer of offenders who have resided in the United States for more than 5 years. Our records indicate that the primary reason cited by California for denial of transfers of Mexican nationals is that the inmate has resided in the United States for more than five years.

California's regulation prohibiting transfer when a prisoner

has resided in the US for 5 years stems directly from the treaty, however, its application does not comport with the treaty. Article II of the U.S./Mexico Prisoner Transfer Treaty, provides that an offender who is a domiciliary of the United States is ineligible to transfer. A "domiciliary" is defined in the treaty as a person who has been present in the territory of one of the parties for at least five years with an intent to remain permanently therein. The IPTU denies prisoner transfers on this basis when the prisoner has lived in the US for 5 or more years and has established rather significant ties to this country. In other words, years alone are not deemed controlling; the actual contacts are evaluated in order to ascertain intent.

The philosophy of the IPTU is to encourage transfers in every possible and appropriate case. Transfers have been denied due to an outstanding court ordered fine or restitution. Also, this office has had occasion to deny transfers because the prisoner was a career criminal or a major drug trafficker. To date, reconsideration of previously denied transfer requests has been provided on a yearly basis to allow the prisoner to correct whatever defect caused the denial. However, effective September 30, 1993, denied requests will be reviewed every 2 years. Although the decision to transfer a prisoner is discretionary, no offender is permitted to transfer a second time. In other words, this office will not transfer someone who has been given this chance once and then returned to the United States and committed

another crime.

There are certain restrictions on the transfer of prisoners. Generally, a prisoner must have at least six months remaining on his or her sentence. The offender must be a national or citizen of the foreign country. The crime the prisoner is convicted of must be a crime in the foreign country (dual criminality). Also, the sentence must be final and there can be no appeal or collateral attack pending.

The United States also receives US citizens from foreign countries. These prisoners are then housed in federal prisons for the remainder of their sentences, as determined by the US Parole Commission, depending upon when the crime occurred. The same issues of dual criminality and appeals apply to US citizens wishing to transfer back, and a verification of consent hearing is held to determine that consent is voluntary. At the present time, many fewer Americans transfer back than foreign prisoners are transferred out. The majority of Americans received by federal institutions are transferred from Mexican prisons. On a yearly basis this office has 4 transfers with Mexico and 4 transfers with Canada. These have been established on a regular basis due to the number of Mexicans and Canadians in federal custody. Transfers with other countries are arranged on an as needed basis, as soon as a prisoner has been approved by both countries. A total of 1,103

prisoners were transferred from the United States between 1977 and 1992.

The IPTU will continue its efforts in transferring foreign nationals to their country of origin to serve the remainder of their criminal sentences.

Thank you for this opportunity to provide your subcommittee with information pertaining to the administration of the Prisoner Transfer Program.

1. a. Which action has been taken by the Department of Justice to insure that state and local jurisdictions are familiar with the transfer program with Mexico?

The Department of Justice (DOJ) has had ongoing conversations and discussions with those states without legislation authorizing the transfer of foreign prisoners. On April 29, 1992, the Office of Enforcement Operations (OEO), met with the National Governors' Association Committee on Justice and Public Safety Staff Advisory Council for a discussion regarding state involvement in the International Prisoner Transfer Program. The meeting was held in the Hall of States building in Washington, D.C. Representatives from the National Governors' Association were briefed by a representative from OEO on the aspects and details of the program. Questions concerning Mexican transfers were addressed to the representative from OEO; and responses to those queries were provided to the Committee members.

The Prisoner Transfer Unit, through Gerald Shur, Senior Associate Director, OEO, has provided material concerning the program to those states without such legislation. There are 15 states without the implementing legislation: Alabama, Delaware, Georgia, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, West Virginia, Vermont. An Overview of International Prisoner Transfer Program was drafted by the Prisoner Transfer Unit in which the program was outlined and the benefits to the states participating were detailed. Emphasis has been on the cost effective results gained by those 35 states participating: States do not incur any costs related to a transfer, with the exception of transporting the prisoner to a United States Magistrate Judge for a hearing to approve the transfer. Moreover, the federal government, not the states, provides the offender with counsel for the transfer proceedings.

To participate in the program, each state must enact appropriate legislation. To encourage and facilitate such legislation, the Unit has provided written examples of prototypical legislation for the states. The Unit has drafted and distributed to all the 15 states without legislation information regarding the procedures in transferring offenders to foreign countries. One state, Pennsylvania, is nearing completion of its prisoner transfer legislation.

b. How would one assess the effectiveness of the above-referenced efforts?

A number of states have expressed interest in such legislation; however, many have rejected the proposals for the following reasons: lack of foreign nationals in the state and uncertainty as to the amount of prison time the nationals will serve in the Mexican prison system.

2. It is my understanding that a common obstacle to obtaining a prisoner's transfer is that an appeal is pending when the request for the transfer is made.

Although a pending appeal does render a prisoner ineligible for transfer, this is not a common obstacle to obtaining a prisoner's transfer. Over the last two years, only 55 transfers were denied due to a pending appeal. The bilateral prisoner transfer treaties and the Strasbourg Convention (Convention) contain general conditions which must be satisfied in order to qualify a prisoner to apply for a transfer to his/her country of origin. While these conditions vary slightly among the treaties, seven of the bilateral treaties and the Convention require that there be no appeals pending at the time a prisoner applies for a transfer, otherwise the prisoner is determined ineligible for a

transfer.

If that is a correct assessment, is there action which can be taken to reduce the number of instances in which the pendency of an appeal is an impediment to a successful transfer?

When denial of transfer is due to a pending appeal, the prisoner is notified that he/she is ineligible to apply for transfer under the Program. Denial on this ground is not irreversible. Once the appeal has been resolved, the request can be reexamined in its entirety.

Would the success rate of prisoner transfer requests be improved by increased efforts to inform state and local jurisdictions of the role that the status of pending appeals has in the consideration of transfer requests?

All states that participate in the International Prisoner Transfer Program have been informed of the conditions contained in the numerous treaties, including the condition prohibiting transfers when there is an appeal pending. When a state denies a transfer in a given case, the specific reasons are not always articulated to the Department of Justice. However, in the cases where reasons have been provided, a pending appeal has rarely

been cited as a reason for denial.

3. Another impediment to use of the treaty provisions is the fact that if the individual is convicted of a violation of Federal immigration law, the transfer provisions will not be used. Apparently, this is due to the position taken by the Immigration and Naturalization Service that it does not want to circumvent the deportation process.

This is correct. If the conviction(s) for which the prisoner is serving a sentence involves an immigration offense such as smuggling illegal aliens, and the applicable treaty prohibits a transfer based on this offense, the transfer is denied. The prisoner transfer treaties with Mexico and Canada explicitly prohibit the transfer of offenders who have been convicted of immigration offenses.

a. Approximately how many prisoner requests each year fall into this category?

In 1992, approximately three (3) transfers of federal prisoners were denied due to the fact that the prisoner's conviction included an immigration offense.

b. In those cases in which a state seeks to transfer a prisoner, and the individual is convicted of violations of

Federal immigration law, what efforts have been made to conduct deportation hearings early in the prison term so that the individual could be transferred and subject to a deportation order?

Most state prisoners who seek transfers have been convicted of purely state offenses and not of Federal immigration offenses, and; therefore, would not be denied a transfer for this reason. However, when a federal offender who has been convicted of an immigration offense requests a transfer to Mexico or Canada, the prisoner's transfer request is denied accordingly.

Conducting deportation hearings early in the prison term has no effect on our decision to approve or deny a transfer request. At the request of INS, the IPTU has made an attempt to coordinate conducting deportation hearings prior to a prisoner's transfer in order to obtain a deportation order for all illegal aliens prior to allowing the transfer. Despite our efforts to assist in this matter, we have been unsuccessful in reaching this goal, primarily because deportation hearings occur at the end of a prisoner's sentence, while prisoner transfers occur anytime during the pendency of the sentence. If the IPTU were to wait for INS to conduct deportation hearings, the prisoner would have served the entire sentence here in this country, thereby voiding any need to transfer.

c. If no such efforts have been made, why not?

See above response.

i. According to testimony recently presented by an official of the Immigration and Naturalization Service before a California state legislative committee, it is the prisoner which must seek the transfer. It appears, based on the treaty, that either the state or the individual can request the transfer although all parties--the Federal government, the state, and the foreign government--must ultimately agree to the transfer. Please clarify this matter.

Pursuant to the U.S. Mexico Treaty, Article IV, "i", the Transferring State or the prisoner may initiate a transfer request. However, procedurally, the United States does not unilaterally seek the transfer of certain alien offenders. Since, the transfers are voluntary, they are initiated by the prisoner.

Any changes in the treaty contemplated by the U.S. Government?

This office is not aware of any potential changes to any of the prisoner transfer treaties.

CLIFF STEARNS

6TH DISTRICT, FLORIDA

COMMITTEES**ENERGY AND COMMERCE****VETERANS' AFFAIRS**

CHAIRMAN
MILITARY PERSONNEL
TASK FORCE
CO-CHAIRMAN
HEALTH CARE POLICY
TASK FORCE

**Congress of the United States****House of Representatives****Washington, DC 20515-0906**

23 March 1994

REPLY TO

332 CANNON BUILDING
WASHINGTON, DC 20515-0906
(202) 225-5744
FAX (202) 225-3973

FLORIDA DISTRICT OFFICES

- 115 SE 25TH AVENUE
ORLANDO, FL 32801
(904) 351-8777
FAX (904) 351-8011
- 1726 KINGSLEY AVE #8
ORANGE PARK, FL 32073
(904) 269-3203
FAX (904) 269-3343
- 111 S 6TH STREET
LEESBURG, FL 34748
(904) 326-8285
FAX (904) 326-9430

The Honorable Karen Thurman
Member of Congress
130 Cannon H.O.B.
INSIDE MAIL

Dear Representative Thurman:

Thank you for your invitation to participate in the Government Operations field hearing on illegal immigration. Regrettably, I will be unable to attend. However, I appreciate the opportunity afforded by the hearing to interpolate my feelings on this very important matter.

As we all know, immigration is rapidly becoming one of the most critical issues on the national agenda. And, despite reform efforts in 1986 and 1990, our immigration policies still lack adequate enforcement mechanisms and continue to place a tremendous burden on our criminal justice system, our schools, and our social programs.

As a member of the Task Force on Illegal Immigration, I am painfully aware of the shortcomings of current legislation. It is estimated that there are 6 million illegal immigrants in America, more than 10% of whom reside in Florida. This costs Florida taxpayers over \$12 million a year in Medicaid programs alone. In fact, over the next decade U.S. taxpayers will expend over \$450 billion to support this country's illegal immigrant population.

My Republican Task Force colleagues and I have recently co-authored H.R. 3860, the Illegal Immigration Control Act of 1994. This piece of legislation is an omnibus reform bill, which would require the INS to install physical barriers in areas of high illegal entry, increase the number of Border Patrol by 3,000, impose user fees for persons or vehicles crossing U.S. land and sea borders, expand on penalties for alien smuggling to involve RICO enforcement authority, eliminates government benefits to illegals, and combats fraud in employer sanction laws. The bill would also revamp the current methods of dealing with, tracking, and deporting criminal aliens.

H.R. 3860 would be budget neutral--any additional incurred costs would be paid for by the user fees. In fact, this legislation would save money, for it would ultimately decrease the number of illegals that wrongly receive welfare and medical benefits, a fact that should comfort Florida's residents.

I am looking forward to bi-partisan support of the reform efforts now pending in Congress. It is high time that we redress this most significant problem for the sake of Florida and for the nation.

Thank you for your efforts to bring to light this serious situation. I appreciate the opportunity to elucidate my feelings on the subject. Again, I apologize for not being able to appear in person. With regards, I am,

Sincerely,

Cliff Stearns
Member of Congress

CS:ctc

PETE PETERSON
2d DISTRICT, FLORIDA

COMMITTEE
ON
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Congress of the United States
House of Representatives
Washington, DC 20515-0902

WASHINGTON OFFICE
426 CANNON BUILDING
WASHINGTON, DC 20515-0902
(202) 225-5235

DISTRICT OFFICES
930 THOMASVILLE ROAD, SUITE 101
TALLAHASSEE, FL 32303
(904) 561-3979
MARIANNA
(904) 526-7516
LAKE CITY
(904) 752-1088
30 WEST GOVERNMENT STREET
PANAMA CITY, FL 32401
(904) 785-0812

Testimony Submitted

By the Honorable Douglas "Pete" Peterson, Second District Florida

To The Government Operations Subcommittee Field Hearing

At Santa Fe Community College, Gainesville, Florida

March 28, 1994

I would like my testimony included as part of the record of the Government Operations Subcommittee field hearing, at Santa Fe Community College in Gainesville, Florida on Monday, March 28, 1994. I regret that I was unable to attend in this very important hearing. I would like to congratulate my colleagues Congressman Condit and Congresswoman Thurman for hosting this hearing.

Knowing of the hardships that the state of Florida has incurred in the past and present concerning illegal immigration, I believe now is the time for the federal government to assume their fiscal obligations. The Florida Congressional Delegation as a whole has been very responsive and is continuing to work very closely with Governor Chiles and his administration on illegal immigration issues.

The Delegation has been working extremely hard with the Department of Justice to secure a cohesive federal mass immigration plan for the state of Florida. With the political and economical situation in Haiti, I believe it is vital that Florida has the necessary resources and appropriate federal assistance to handle a potential mass exodus of Haitian citizens entering Florida's borders. It was not too long ago that Florida was faced with a similar

situation and was unprepared and unequipped to deal with the influx of Cubans during the Mariel boatlift in the 1980s.

Another issue that needs to be addressed is the large population of illegal immigrants located in Florida, as well as California, Texas, New York, and Illinois. The cost to the Florida taxpayer to pay for services like health care, education, and prison space for criminal aliens is astronomical. The Florida taxpayer should not be the one shouldering the costs for federal policy.

Congressman Condit of California has introduced a bill (H.R. 3872), of which I am a cosponsor, that would allow the federal government to take custody of undocumented criminal aliens incarcerated in state and local prisons or to reimburse the state and local governments for the cost of incarceration. Senator Graham has introduced a similar bill (S. 1849) in the Senate. Prison space occupied by criminal aliens at state and local facilities is seriously hampering the ability to keep violent criminals in jail due to the lack of prison space. The federal government needs to act accordingly to assist states that are experiencing this dilemma.

Clearly, Florida has suffered from the federal government's regulatory policy with respect to illegal immigration. I will continue to work with the Florida Delegation as well as Governor Chiles and his administration in providing relief to this growing problem.

Again, I appreciate the opportunity to submit my comments for the record.



Florida House of Representatives

Kelley R. Smith
Representative, 21st District

Reply to:

- 222 North Third Street
Palatka, FL 32177
(904) 325-8384
- 324 House Office Building
Tallahassee, FL 32399-1300
(904) 488-0665

March 29, 1994

Committees

Corrections, Chairman
Community Affairs
Veterans, Military Affairs & Emergency Preparedness Subcommittee, Chairman
Ethics & Elections
Rules & Calendar
Transportation

The Honorable Gary Condit, Chairman
Information, Justice, Transportation,
and Agriculture subcommittee
B-349 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Condit:

Thank you for the opportunity to provide information regarding the issue of alien inmates in Florida's Corrections system. As you are aware, this problem has greatly contributed to our state's overcrowded prisons.

Current law, which was directed by a federal court consent decree in the case of Costello v. Dugger, limits the number of inmates the Department of Corrections may house in its prisons is limited to lawful capacity, which was set at 133% of design capacity. Under Florida law, the prison system is maintained at 99% of lawful capacity. In order to obtain more beds at no cost to the state, the 1994 Legislature is considering legislation to move this percentage to 100% of lawful capacity. Even though the state has added over 10,000 new prison beds during the past few years, and increased the lawful capacity percentages, the average sentence served by inmates in Florida prisons is only 42%. While the average time served has increased in recent years, this figure is still unacceptable. It is important to remember that this is only an average. Some inmates are leaving the Florida prison system after serving only 10-15% of their sentences. This does not provide sufficient punishment nor an opportunity for the inmate to complete programs designed to reduce the recommitment rate.

In searching for answers to Florida's prison crisis, I was shocked to learn that Florida now incarcerates over 2,700 alien inmates, which is approximately five percent of the total prison

The Honorable Gary Condit
March 29, 1994
Page 2

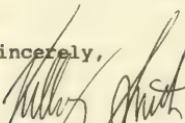
population. Additionally, the state Department of Corrections provides for the supervision of over 5,000 aliens who are on probation, parole or control release. The cost to the State of Florida for these aliens during 1993 was a staggering \$107,597,527. Over 600 of these inmates are incarcerated as a result of the Mariel Cuban Boatlift of 1980. These inmates alone cost the state over \$9 million last year.

What are the answers? First, I believe that the Federal Government needs to assume its responsibility in this issue. Its prisons are not under court order to alleviate prison overcrowding. By transferring these alien inmates out of the Florida system, and with the present building program that the state is undertaking, we can reach a reasonable percentage of sentence served by non-alien inmates. If this is not an acceptable alternative, I believe that the Federal Government should assume a greater role in assisting Florida in defraying the costs for the incarceration and supervision of these alien prisoners.

Secondly, Immigration and Naturalization Services (INS), although more cooperative than in past years, should be issued new directives to more rapidly expedite the classification of new alien prisoners and more vigorously pursue the deportation of selected inmates and parolees. This alone could save the state millions of dollars. I believe that the Florida Department of Corrections has provided the INS with detailed information regarding this issue.

I wish to thank and commend the Committee for its work regarding this difficult problem for our state as well as for other states. I sincerely hope and expect that you will assist us in resolving these issues. If I can be of further assistance or provide further information, please don't hesitate to call upon me.

Sincerely,


Kelley R. Smith

KRS:tcm

cc: The Honorable Karen Thurman



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KAREN JOHNSON

11th District

March 30, 1994

COMMITTEES:
 Education,
 Chairman
 Finance, Taxation and Claims
 Governmental Operations
 Natural Resources and Conservation
JJoint COMMITTEE:
 Advisory Council on Intergovernmental Relations

Honorable Karen L. Thurman
 United States House of Representatives
 130 Cannon House Office Building
 Washington, D.C. 20515

Dear Representative Thurman:

As the Chairman of the Senate Education Committee, and a member of the Florida Advisory Council on Intergovernmental Relations, I am very concerned with the unfair financial burden imposed on the State due to the presence of undocumented refugees in Florida.

Based upon data prepared by Florida Governor Lawton Chiles' office, in conjunction with the Florida Advisory Council on Intergovernmental Relations, it is conservatively estimated that, in fiscal year 1993, the amount expended by Florida's state and local governments relating to costs associated with undocumented aliens in Florida exceeded \$900 million.

While it is extremely difficult to specifically ascertain such final impact, it is clear that federal immigration policies have placed a substantial and undue burden upon Florida's education, health care, and correctional systems. The following is an agency by agency breakdown of estimated costs, during 1993, which were directly attributable to undocumented alien presence in Florida (state and local) :

Department of Education.....	\$180.4 million
Agency for Health Care	\$4.1 million
Department of Health and Rehabilitative Services..	\$9.3 million
Department of Corrections	\$36.0 million
Judicial System (state courts).....	\$10.0 million
Law Enforcement.....	\$2.3 million
Public Infrastructure.....	\$40.4 million

REPLY TO:

- Post Office Box 490557, Leesburg, Florida 34749-0557 (904) 360-6670
- #1 Courthouse Square, Room 108, Inverness, Florida 34450 (904) 637-9990
- 317 Senate Office Building, Tallahassee, Florida 32399-1100 (904) 487-5014

PAT THOMAS
 President

ANDER CRENshaw
 President Pro Tempore

JOE BROWN
 Secretary

WAYNE W. TODD, JR.
 Sergeant at Arms

March 30, 1994
Representative Thurman
Page 2

¹ See The Unfair Burden, Immigration's Impact on Florida, a report prepared by the Executive Office of the Governor and the Florida Advisory Council on Intergovernmental Relations, March, 1994.

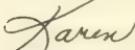
² This figure is based upon criminal alien status officially verified by the U.S. Immigration and Naturalization Service. The Department of Corrections (DOC) represents that there are in excess of 4100 inmates, as of 2/94, that have self-reported alien status, many of whom have not yet been verified. In addition, this figure does not reflect construction costs associated with the corresponding number of criminal aliens currently incarcerated within DOC.

Florida should no longer bear the immense financial burden directly attributable to federal immigration policy. Furthermore, Florida should be reimbursed by the federal government for the billions of dollars that it has expended over time due to such policy.

I am extremely pleased that you have taken the initiative to gather this information on the fiscal impact to Florida due to undocumented refugees. I know you are as concerned as I am on the specific impact this has had on education, not only the \$180.4 million, but on class size and teacher - student ratios. We all appreciate the continued effort and leadership you have shown on this issue.

Governor Chiles has made resolution of these issues a high priority of his administration. We need your help!

Sincerely,



Karen Johnson
Senator District Eleven

APPENDIX 3.—LETTERS OF CORRESPONDENCE SUBMITTED FOR THE RECORD

Gary A. Co., California, Chairman
Major Owens, New York
Karen Thurman, Florida
Lynn Woolsey, California
Bart Stupak, Michigan

Craig Thomas, Wyoming
Ranking Minority Member
James E. Oberstar, Minnesota
Stephen Hays, California

ONE HUNDRED THIRD CONGRESS
Congress of the United States
House of Representatives
Information, Justice, Transportation, and Agriculture
Subcommittee
of the
Committee on Government Operations
B-349-C Rayburn House Office Building
Washington, DC 20515
August 19, 1993

(202) 225-3741
FAX (202) 225-3465

Ms. Chris Sale
Acting Commissioner
Immigration and Naturalization Service
Chester Arthur Building
425 I Street, N.W.
Washington, D.C. 20536

Dear Ms. Sale:

I am concerned that the United States has given inadequate attention to assessing the potential impact of adoption of the North American Free Trade Agreement (NAFTA) on immigration from Mexico into the United States. As a result, I question whether the Immigration and Naturalization Service will be prepared to handle increasing pressures on the southwestern United States border resulting from both illegal immigration and the crossing of business visitors.

Illegal immigration issues were specifically excluded from the NAFTA discussions and the text of NAFTA does not address illegal immigration.¹ Chapter 16, "Temporary Entry", provides for legal immigration of business persons who fall into four categories.² Information provided by the Executive Branch to Congress says little relative to the implications for Mexican migration to the United States under NAFTA.³

However, two Congressional reports indicate that the agreement will definitely have immigration effects. According to the Congressional Research Service, many experts believe that "NAFTA will not stop illegal Mexican migration and, in the short run, may

¹ Gary Clyde Hufbauer and Jeffrey J. Schott, Institute for International Economics, *NAFTA: An Assessment* 24 (1993) and Radil Hinostroza-Ojeda and Sherman Robinson, "Labor Issues in a North American Free Trade Area", The Brookings Institution, *North American Free Trade: Assessing the Impact* 70 (1992).

² México, Secretaría de Comercio y Fomento Industrial 18-19 (1992).

³ U.S. International Trade Commission, *Potential Impact on the U.S. Economy and Selected Industries of the North American Free-Trade Agreement*, Report to the Committee on Ways and Means of the United States House of Representatives and the Committee on Finance of the United States Senate on Investigation No. 332-337 Under Section 332 of the Tariff Act of 1930, January 1993; "Exchange of Letters on Issues Concerning the Negotiation of a North American Free Trade Agreement", Committee on Ways and Means, U.S. House of Representatives, Committee Print, 102d Cong., 1st Sess.

increase it.³ In the long term, there is hope for a decrease in illegal immigration if economic conditions improve in Mexico. The Office of Technology Assessment (OTA) issued a report which expresses skepticism that market forces alone will "produce significant social and economic rewards following a free trade agreement."⁴ OTA assesses the immigration situation as follows:

...The boundary between the United States and Mexico stretches for 2,000 miles; at most points, people can cross almost as easily as polluted air....Only socioeconomic development in Mexico that reaches into the lowest classes will slow that flow appreciably.

...If economic growth in Mexico leads to meaningful gains in wages and living standards, some of the pressure to emigrate will abate. But Mexico's income distribution is heavily skewed toward the wealthier classes. Should the benefits of a North American Free Trade Agreement (NAFTA) go to those who are already well off, there might be little if any slowing of emigration. Moreover, a NAFTA could lead to increased emigration in the short-term by creating rising expectations in Mexico that could not be quickly satisfied--or simply by creating new jobs near the border to serve as jumping-off points for migrants.

Improvements in wages and living standards promise to take decades rather than years, given Mexico's rapidly growing population and already high levels of unemployment and underemployment....The United States has little choice but to prepare to absorb and put to work continuing inflows of Mexican immigrants....⁴

A variety of academics and other experts have concluded that immigration is likely to increase under NAFTA.

The Carnegie Endowment for International Peace conducted a roundtable discussion, including former Administration officials, regarding the likely impact of NAFTA. From that meeting, a consensus evolved that adoption of NAFTA will have immigration effects which can and should be addressed.⁵

Former Labor Secretary Ray Marshal has concluded: "Because of the size and conditions of the Mexican labor force, one of the most important of NAFTA's immediate impacts probably will be on immigration, not on general economic conditions."⁶ His views

³ Congressional Research Service, The Library of Congress, CRS Report for Congress, *A North American Free Trade Agreement and Immigration*, January 15, 1993 at 4.

⁴ U.S. Congress, Office of Technology Assessment, *U.S.-Mexico Trade: Pulling Together or Pulling Apart?* OTA-S-5 (Washington, D.C.: U.S. Government Printing Office, October 1992. at 3.

⁵ Id. at 115.

⁶ Telephone conversation with Demetrios G. Papademetriou, Senior Associate, Carnegie Endowment for International Peace, Washington, D.C., April 22, 1992.

⁷ Ray Marshall: "The North American Trade Agreement: Implications for Workers", *Sectoral Labor Effects of North American Free Trade* 15 (1993).

are based on the expectation that Mexico's work force will increase at about one million a year, and that it is unlikely that Mexico will sustain enough economic growth to absorb simultaneously this growing work force as well as the people who will be displaced from marginal rural and urban industries.

Gary Clyde Hufbauer and Jeffrey J. Schott, supporters of NAFTA, conclude in a publication of the Institute for International Economics that in the short term, Mexican immigration is likely to increase. They believe that the increase will occur for reasons having nothing to do with NAFTA. However, they acknowledge that NAFTA may "marginally increase the gross number of illegal immigrants"⁹ and suggest that the United States will "probably have to augment" programs currently providing limited assistance to local jurisdictions to help absorb costs resulting from immigration.¹⁰

Dolores Acevedo and Thomas J. Espenshade, Office of Population Research, Princeton University conducted a study in which they concluded that in "the short-to-medium run, a North American Free Trade Agreement is likely to increase pressures for undocumented migration from Mexico to the United States".¹¹ They believe that the migration effect "need not be sudden or overwhelming." They predict that if in the long run, free trade brings about an improvement in the Mexican economy, the incentives for undocumented migration will weaken.¹²

Raúl Hinojosa-Ojeda and Sherman Robinson raised concerns about the exclusion of migration issues from NAFTA, pointing out that the future patterns and levels of labor migration will "be an important influence not only on relative wages and the pattern of trade and employment but also on the future pattern of sectoral production, productivity growth, corporate profitability, investment spending, and international competitiveness."¹³

But while there seems to be a consensus that illegal immigration will increase in the short term, there are a variety of factors which make it difficult to project the extent of the impact. One factor is that there are deficiencies in the collection of data regarding migration flows and the undocumented population in the United States. A newly completed General Accounting Office report identifies specific limitations in data regarding illegal aliens. As GAO reported, the Immigration and Naturalization Service has no separate data system for routinely counting the size of the U.S. illegal alien population or its annual

⁹ *Supra*, note 1 at 25.

¹⁰ *Id.* at 26.

¹¹ Dolores Acevedo and Thomas J. Espenshade, "Implications of a North American Free Trade Agreement for Mexican Migration into the United States", September 1992. Abstract.

¹² *Id.*

¹³ Hinojosa-Ojeda and Robinson, *supra*, note 1, at 70 & 71.

flow. As a consequence, researchers must use multiple data sources to estimate this hidden population, and they can measure only part of the total flow in any period.¹⁴

With regard to legal crossings, INS has indicated that making projections regarding the number which would occur under NAFTA is also "problematic". In response to an inquiry from the former Chairman of the Senate Finance Committee, INS reported that it had been unable "to locate reliable data upon which to base an estimate of growth in north-bound traffic, across the United States Mexican border, that might be expected upon enactment of this agreement".¹⁵ INS noted that the General Accounting Office had estimated in 1991 that traffic would increase 10 to 25 percent. But, INS rejected those estimates, choosing instead to rely on projections based on "...experience with the Canadian Free Trade Agreement".¹⁶ INS argued that based on the Canadian experience, traffic into the United States may "increase slightly, not to the levels mentioned in the GAO report", estimating that it would increase 3%.¹⁷

In summary, it appears that the United States government has given little attention to anticipating immigration changes and that it is not in a position to predict accurately what will happen to immigration under NAFTA even though expert observers believe that there will be an impact. The events of this year have made clear that immigration that is not adequately controlled can have a major, and sometimes negative, impact on our country. I believe that it is vitally important that questions relating to immigration impacts, in particular the potential growth of illegal immigration, be addressed as the Congress proceeds to its consideration of NAFTA.

Accordingly, I would appreciate receiving answers to the following questions:

1. Does the Immigration and Naturalization Service have a 5 or 10 year plan describing the anticipated changes in immigration patterns and trends and the actions INS plans to take in response? If not, why not?
2. What are current predictions regarding the impact of NAFTA on illegal immigration? What is the basis for these predictions?
3. In its new report regarding data on illegal immigration, the General Accounting Office made several specific recommendations for improving the quality of data used to describe immigration flows. (GAO/PEMD-93-25 at 5, copy enclosed.)

¹⁴ *Illegal Aliens: Despite Data Limitations, Current Methods Provide Better Population Estimates* (GAO/PEMD-93-25).

¹⁵ Letter from Gene McNary, Commissioner, Immigration and Naturalization Service to the Honorable Lloyd Bentsen (sic), U.S. Senator, Washington, D.C.

¹⁶ M

¹⁷ M

What action is being taken by the Immigration and Naturalization Service to implement GAO's recommendations?

4. Describe INS' plans for meeting additional demands for controlling illegal immigration as a result of implementation of NAFTA. Please include a discussion of additional resources which will be needed to patrol the border and a description of plans for improving INS enforcement during the NAFTA implementation years.

5. With regard to legal crossings, does INS continue to reject the data estimates made by the General Accounting Office in 1991? Explain why the experience under the Canadian Free Trade Agreement is appropriate for projecting the movement across the border between the United States and Mexico.

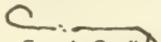
6. For each of the implementation years for NAFTA, what plans does INS have for staffing changes in its inspection staff at the border?

7. What plans does INS have for structural changes of border facilities to accommodate changes resulting from NAFTA?

8. A report issued by the United Nations Association of the United States of America concludes that there is a "natural trade-off between Mexican cooperation with efforts to control illegal migration and more effective U.S. protection of the labor and human rights of Mexican immigrants in the United States."¹⁸ Is the Immigration and Naturalization Service doing anything to foster cooperation with Mexico by helping insure that there is more effective protection of labor and human rights of Mexican immigrants in the United States? If so, please be specific regarding what is being done.

Thank you for your responses to these questions.

Sincerely,


Gary A. Condit
Chairman

¹⁸ Economic Policy Council, United Nations Association of the United States, "The Social Implications of a North American Free Trade Agreement", at 35.



U. S. Department of Justice

Office of Legislative Affairs

File Cr 703.10 56

Office of the Assistant Attorney General

Washington, D.C. 20530

NFC | 4 1993

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The Honorable Gary A. Condit
Chairman, Subcommittee on Information,
Justice, Transportation and Agriculture
Committee on Government Operations
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Let me offer apologies on behalf of the Department for the delay in responding to your letters to the Attorney General and the Commissioner of the Immigration and Naturalization Service (INS), requesting that eight specific questions about the North American Free Trade Agreement (NAFTA) be addressed. The enclosure to this letter addresses those eight questions for the record.

You also posed a general question as to whether the INS "will be prepared to handle increasing pressures on the southwestern United States border resulting from both illegal immigration and the crossing of business visitors." As the answers to the questions will demonstrate, the INS has been working diligently to incorporate the anticipated impacts of NAFTA into our plans and operations. Recent Presidential and Attorney General initiatives have served to accelerate and enhance these efforts. We feel confident that with the appropriate support, INS will be well prepared to accomplish its mission.

Thank you for providing me the opportunity to respond to your specific questions on NAFTA. If you have questions regarding this or any other matter, please do not hesitate to contact this office.

Sincerely,

Sheila F. Anthony
Assistant Attorney General

Enclosure

Question 1. Does the Immigration and Naturalization Service (INS) have a 5- or 10-year plan describing the anticipated changes in immigration patterns and trends and the actions INS plans to take in response? If not, why not?

Currently, INS is developing a strategic plan to address mission accomplishments into the next century. This plan will address expected patterns and trends in both legal and illegal immigration. The INS also develops a 5-year statistical projection on immigration every 3 years. On an annual basis, INS components develop tactical operations plans based on projections and recently experienced work load which address the anticipated illegal and legal immigration work load. In recent years, the INS components that would be most affected by a NAFTA decision have developed planning parameters based on anticipated work load that would occur under this scenario. The Inspections program, responsible for Ports-of-Entry (POE) operations, uses a fairly sophisticated simulation model to determine INS staffing requirements for the various POEs. The Border Patrol program, operating between the POEs to deter illegal entry, has likewise developed plans cognizant of NAFTA.

Question 2. What are current predictions regarding the impact of NAFTA on illegal immigration? What is the basis for these predictions?

The near-term prediction is for illegal immigration from Mexico to continue to increase, given the dynamics of the Mexican population growth and economic development situations, however, NAFTA will provide increased job opportunities for Mexican citizens. The recent past and current population growth rate will likely result in more individuals reaching working age than the Mexican labor market can absorb for the next decade. The NAFTA-based job opportunities are expected to provide an important offset to this trend.

Question 3. In its new report regarding data on illegal immigration, the General Accounting Office (GAO) made several specific recommendations for improving the quality of data used to describe immigration flows. (GAO/PEMD-93-25 at 5, copy enclosed). What action is being taken by the INS to implement GAO's recommendations?

The GAO made recommendations regarding data improvements, particularly to allow improvements in analysis of social, economic, environmental and demographic impacts of immigration laws, and for better estimation of the geographic distribution of illegal aliens. To address overall data requirements, INS provided funding to the Committee on National Statistics of the National Academy of Sciences (NAS) to assess the data requirements for immigration research with emphasis on improving the data for legal and illegal migration analysis. The NAS report will be available this fall. The INS also organized an Interagency Working Group on Immigration Statistics. The INS and several member agencies are funding

improvements to the Census Bureau's Current Population Survey (CPS) beginning in 1994 which will respond to the GAO recommendations. Activity on other recommendations is ongoing.

Question 4. Describe INS' plans for meeting additional demands for controlling illegal immigration as a result of implementation of NAFTA. Please include a discussion of additional resources which will be needed to patrol the border and a description of plans for improving INS enforcement during the NAFTA implementation years.

In addition to individual plans developed by the INS, Presidential and Attorney General initiatives are addressing this matter. President Clinton, in June, proposed various initiatives to strengthen law enforcement tools to fight illegal immigration. Included in these proposals was an increase of 600 Border Patrol Agents to be used to deter illegal entry along the border. These resources will be added to present plans to strengthen Border Patrol operations. In response to the Attorney General's on-site review of INS Border Patrol operations, the Border Patrol Division is developing additional plans to further enhance operations.

Question 5. With regard to legal crossings, does INS continue to reject the data estimates made by the General Accounting Office in 1991? Explain why the experience under the Canadian Free Trade Agreement is appropriate for projecting the movement across the border between the United States and Mexico.

After consideration of all current information, the INS continues to estimate the amount of legal traffic coming into the United States from Mexico under NAFTA to increase an average of 3 percent per annum, rather than the 10 to 25 percent estimated by GAO. Our most current 1993 statistics for traffic along the southern border showed approximately a 3 percent increase from 1992. The INS statistics address noncommercial traffic only. If NAFTA is passed, we do expect legal, commercial traffic to increase at a greater rate. However, noncommercial, private travel across the border is minimally affected by NAFTA. We believe our historical average of approximately 3 percent increase per year in this type of travel will serve as the best long-term projection when viewing the southern border as a whole.

Question 6. For each of the implementation years for NAFTA, what plans does INS have for staffing changes in its inspection staff at the border?

Beginning in 1991, the INS developed simulation models to assist in calculating the number of positions needed at all land border POEs, including those along the southern border. This effort has progressed to the point where results from this analytical process now serve as the basis for

future requests for additional staffing in the appropriations process. Beginning in 1993, our analyses include additional growth expected as a consequence of the NAFTA.

The budget for FY 1994 includes 200 new inspection positions for land borders. These will be paid for from new fees authorized in the budget. We are currently projecting a need for additional positions nationally in FY 1995. This is based on INS assuming total responsibility for primary inspection for entrants at land border POEs and providing inspections staffing at peak periods to ensure no delays longer than 10 minutes on the northern border and 30 minutes on the southern border. If the current system of shared primary inspection with the U.S. Customs Service continues, however, this can be reduced somewhat. The INS will continue to apply the staffing model annually to determine specific annual staffing requirements. However, the need to reduce budget outlays has precluded requesting additional funds to staff land POEs at this level.

Question 7. What plans does INS have for structural changes of border facilities to accommodate changes resulting from NAFTA?

The INS recently established a specific Facility Planning Office to establish long-term, as well as short-term, plans for facility construction, remodeling and replacement to meet operational needs. That office is developing a national facility plan with current emphasis being given to the southern border. Facility Master Plans are being completed for the San Diego and El Paso areas and for the South Texas area as a whole. Master Plans for the two remaining southern border areas (West-Central Texas and Arizona) are in progress. These plans address all actual and projected operational situations, including the effects of the proposed NAFTA.

Question 8. A report issued by the United Nations Association of the United States of America concludes that there is a "natural trade-off between Mexican cooperation with efforts to control illegal migration and more effective U.S. protection of the labor and human rights of Mexican immigrants in the United States." Is the Immigration and Naturalization Service doing anything to foster cooperation with Mexico by helping insure that there is more effective protection of labor and human rights of Mexican immigrants in the United States? If so, please be specific regarding what is being done.

The Department of Justice (DOJ) exercises ongoing responsibility for the protection of civil rights of individuals within the United States. Through its Community Relations Service program, the protection of the labor and human rights of all immigrants, including those from Mexico, are addressed. In addition, the Department of Labor conducts specific activities to protect the rights of workers in the American workplace.

Under the Immigration Reform and Control Act, the INS along with DOJ have specific responsibilities to monitor and enforce the non-discriminatory employment of migrants legally authorized to work. The INS officers are instructed to advise the Employment Standards Administration of the Department of Labor when likely violations of labor laws are observed during employment site visits. The INS also participates as a U.S. member of the U.S.-Mexican Bi-National Commission on International Bridges and Border Crossings. The Migration and Consular Affairs Subgroup of this Commission is addressing the various human rights issues arising from normal operations, as well as NAFTA.



State of California
HEALTH AND WELFARE AGENCY
1600 NINTH STREET, ROOM 460
SACRAMENTO 95814

PETE WILSON
 GOVERNOR

TELEPHONE
 (916) 654-3454
 FAX
 (916) 654-3343

September 2, 1993

The Honorable Gary Condit, Chairman
 Subcommittee on Information, Justice,
 Transportation and Agriculture
 U.S. House of Representatives
 1123 Longworth House Office Building
 Washington, D.C. 20515

Dear Congressman Condit:

I appreciate having the opportunity to testify before the Subcommittee on Information, Justice, Transportation and Agriculture on August 31, 1993, in Los Angeles to discuss the impact of illegal immigrants on the State of California. We welcome your request to help your subcommittee make the case to the federal government regarding the cost of illegal immigrants on state and local governments.

Per your request, I am enclosing additional information regarding the estimated public cost for illegal immigrants and citizen children for state fiscal year 1993-94. Should you or your staff have additional questions regarding this or other matters, please feel free to contact me at (916) 654-2872.

Sincerely,

S. Kimberly Belshe

S. KIMBERLY BELSHE'
 Deputy Secretary

Enclosure

Undocumented Aliens counted in the 1980 Census by State and updates to 1993

The U.S. Bureau of the Census estimated that 2.06 million undocumented aliens were counted in the 1980 census. This estimate was derived by a residual technique. The 1980 census count of aliens was compared with estimates of the legal resident alien population based on data collected by the Immigration and Naturalization Service (INS) in January 1980. The difference between the total alien census count minus the registered legal resident aliens is the undocumented count. Estimates were developed for each of the states by country of birth, age, sex, and period of entry to the U.S. Of the total 2.06 million undocumented aliens, 1.02 million (50%) were estimated to be in California.

For post-censal estimates 1980 to 1990 the Census Bureau had estimated a yearly increase of 200,000 for the U.S. and 100,000 for California. These estimates were based on the 1980 census research of the 1975-80 entry period of the undocumented and updated by the Current Population Survey (CPS) conducted by the Census Bureau. The 1980 to 1990 CPS established the total number of foreign-born. The number of legal foreign-born were subtracted from the total to estimate the undocumented aliens, the same residual technique that was used for the benchmark 1980 census.

The Census Bureau is continuing to research the number of undocumented immigrants to the United States. Current, unofficial research has updated the 1980 estimate of undocumented in the U.S. to 3,000,000 based on the CPS. The annual estimates for new entries is in the range of 200,000 to 300,000. Many of the undocumented were legalized under provisions of the Immigration Reform and Control Act of 1986. These now legal residents are deducted from the undocumented count.

These are current but unofficial estimates done by U.S. Census Bureau staff of the undocumented immigrants in the United States updated to 1993. California has 52.1% of the undocumented immigrants.

California	2,083,000
Texas	521,000
New York	371,000
Illinois	270,000
Florida	137,000
<u>Other States</u>	<u>618,000</u>
 U.S.	 4,000,000

Except for the states listed no other state has 100,000 or more undocumented immigrants.

The Department of Finance estimate of the school age population (age 5-17) is based on the distribution by age of the 1980 Census Bureau estimate of the undocumented in the United States. The distribution was held constant to 1980 because no new information was available and the assumption that the distribution does not change dramatically year to year because the ages of those coming in tends to approximate the ages of those leaving.

Department of Finance, Demographic Research Unit

Gary A. Condit, California, Chairman
 Major Owens, New York
 Karen Thomas, Florida
 Lynn Woolsey, California
 Bill Supinski, Michigan

Craig Thomas, Wyoming
 Ranking Minority Member
 Benito Ros-Lehtinen, Florida
 Stephen Horn, California

ONE HUNDRED THIRD CONGRESS
Congress of the United States
House of Representatives
 Information, Justice, Transportation, and Agriculture
 Subcommittee
 of the
 Committee on Government Operations
 B-349-C Rayburn House Office Building
 Washington, DC 20515

(202) 225-3741
 FAX (202) 225-3465

September 29, 1993

The Honorable Grace Napolitano
 State Assembly
 Post Office Box 942849
 Sacramento, CA 94299-0001

Dear Assemblywoman Napolitano:

Thank you very much for your participation in the Subcommittee's August 31 hearing on the Cost Impact of Immigration on Los Angeles and California. The record of the hearing could be very helpful to the new administration in identifying necessary changes in immigration policy. I greatly appreciate your help in developing a record.

As I mentioned during the hearing, I have additional questions for which I would appreciate receiving responses:

1. In your testimony, you stated that the Assembly Research Office reviewed over 45 studies and reports for your Committee and concluded that there is no conclusive evidence that immigration has a negative or positive impact on California and national economics.

You go on to state that the results of these studies support the argument that state and local governments bear a disproportionate share of the financial burden of immigrants. Have these studies, in your opinion, provided conclusive evidence that state and local governments are shouldering the cost impacts of immigration?

2. The Subcommittee has been in active contact with immigration-impacted states such as Texas, Florida, New York and Illinois. What we are finding is that there is no uniform methodology within states and among states to measure state and local cost impacts of illegal immigration. As a result, it is difficult for immigration impacted states to build a strong case of federal reimbursement. The development of a uniform methodology is critical. Is your committee working with other states on developing a methodology?

Thank you for your assistance in this matter.

Sincerely,



Gary A. Condit
 Chairman

OFFICE OF RESEARCH
1020 N Street, Room 408
Sacramento, California 95814
(916) 445-1638
(916) 327-3874 FAX

**Assembly
California Legislature**
ASSEMBLY OFFICE OF RESEARCH

Jimmy R. Lewis
Director

August 9, 1994

The Honorable Gary Condit
U.S. House of Representatives
1123 Longworth Bldg.
Washington, D.C. 20515

Dear Congressman Condit:

At the request of Assembly Member Grace Napolitano, this office has been asked to reply to your inquiries as a member of the House Subcommittee on Information, Justice, Transportation, and Agriculture concerning the Assembly Office of Research (AOR) conclusions in 1993 after reviewing then-existing studies on the fiscal impact of immigration.

After reviewing 29 studies that existed as of Nov. 4, 1993, the Assembly Office of Research concluded that, in general, insofar as the studies dealt with the cost-benefit aspects of immigrants on the economy, they have yielded two types of conclusions, depending on which level of government is scrutinized. On the national level, the studies tend to conclude that immigrants contribute more in tax revenues than they take from services they use. For state and local governments, where most government services are offered, immigrants often receive more services than they generate in tax revenues, the studies generally found.

AOR also reported that many researchers have agreed that, due to lack of reliable statistics, it has been difficult to quantify the governmental expenditures and revenues associated with immigrants. The authors' choices of study population, data sources and methodologies have produced very different results. Enclosed is the report of Assembly Member Napolitano's Select Committee on Statewide Immigration Impact, and two briefing papers : "Literature Review: Previous Studies on the Impact of Immigration," and "Inventory of Existing State Data on Immigrants," for your reference.

Thank you for giving this office the opportunity to participate in this very important work of the Subcommittee.

Sincerely,

Jimmy R. Lewis
Jimmy R. Lewis
Director

cc: Assembly Member Grace Napolitano


Printed on Recycled Paper

(Material referred to is contained in the Subcommittee files)

Gary A. Condit, California, Chairwoman
 Major Owens, New York
 Karen Thurman, Florida
 Lynn Woolsey, California
 Ben Shadok, Michigan

Calig Thomas, Wyoming
 Ranking Minority Member
 Dennis Rohrabacher, Florida
 Stephen Horn, California

ONE HUNDRED THIRD CONGRESS
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 B-349-C Rayburn House Office Building
 Washington, DC 20515

(202) 225-3741
 FAX (202) 225-3445

September 29, 1993

Ms. Cynthia Wishinsky
 Chief, Criminal Alien Branch
 Investigations Division
 Immigration and Naturalization Service
 Chester Arthur Building
 425 I Street, NW
 Washington, D.C. 20536

Dear Ms. Wishinsky:
Cynthia,

Thank you very much for your participation in the Subcommittee's August 31 hearing on the Cost Impact of Immigration on Los Angeles and California.

As I mentioned during the hearing, I have additional questions for which I would appreciate receiving responses:

1. In 1992, the Immigration and Naturalization Service issued a report entitled "Report on Criminal Aliens". It was supposed to contain information regarding the number of aliens incarcerated in penal institutions "who are not lawfully admitted to the United States." However, it did not contain any information regarding individuals in local jails. INS stated that it was continuing to receive and consolidate information regarding the number of aliens in local jails. What is the status of that project?
2. President Clinton announced that INS plans to "deport up to 7,000 more criminal aliens by extending the Institutional Hearing Program."

What do you estimate is the total number of criminal undocumented aliens in California who are deportable?

3. Mr. Shaw testified in June that the Seely State Prison (Mt. Signal) institutional hearing program was scheduled to open in late 1993. Your testimony indicated that it is "scheduled to open in mid-1994." What has caused the slippage in dates?

4. You described the "operation double actions" to round up aliens who are on parole and have been convicted of serious crimes such as murder and rape.

Are any additional "double action" operations planned for California this year?

5. I believe that it would be more productive to deport individuals before they are released into the community. We have been informed that INS is doing "everything possible" to insure that individuals are deported before they are released.

Would you please describe specifically what "everything possible" means for California state and county facilities that have illegal aliens?

6. Commander Chancellor testified that a "Federal initiative is urgently needed to establish a nationwide system for identifying and tracking criminal aliens based on computerized fingerprint technology".

a. What is the status of the Automated Fingerprint Identification System project currently underway?

b. What is planned next for the project and when will that occur?

7. What is the status of the National Tracking Criminal Alien Center discussed on page 13 of your testimony?

8. Witnesses who testified in Merced proposed a program by which there would be a mandatory requirement for transfer of prisoners to their home countries. Some have even suggested providing a subsidy to the foreign country housing the prisoners.

How would you respond to this proposal?

9. Assemblywoman Napolitano suggested that the Federal government negotiate a new treaty with Mexico to build a prison in Mexico that will accommodate the prisoners now serving their sentences in California.

What do you think about that idea?

10. You testified that INS is cooperating with Justice on the selection of immigration judges. Would you please tell us what your recommendation is for the number of new immigration judges in California?

11. You testified that California is "fully operational within the Five State" Criminal Alien model. What has been specifically done to make it "fully operational" and what will we see now that is different than before?

12. In a statement submitted to the Subcommittee, Mr. Antonovich recommends that there be "joint power" agreements between local law enforcement and INS. Do you have any thoughts about his idea?

13. Supervisor Deane urged more funding of the Border Patrol. On the other hand, the GAO testified in March that the "proportion of total Border Patrol Agent time devoted to border control activities decreased from 71 percent to 60 percent from 1986 to 1991". What has INS done this year to insure that more agent time is spent patrolling the border?

14. The Subcommittee received testimony from the National Council of La Raza that representatives of the Border Patrol had told them that in the interest of beefing up their apprehension numbers, they had been told not to stand or present themselves in such a way as to provide a deterrent to people on the other side of the border who seek to come in, but rather to wait on this side of the border until they come in and then catch as many of them as possible to get better apprehension statistics.

In an earlier response submitted to the Subcommittee, INS says that there are "operational" reasons for staying back from the border.

a. Would you please explain those reasons?

b. What action has been taken to insure that the practice is not being done to increase apprehension statistics?

15. You testified to the prosecution of 123 re-entry cases in the past 2 1/2 years. Is that about the right number of cases that should be prosecuted or should more be prosecuted?

16. What would you tell new U.S. Attorneys should be done to improve the assistance that the INS is getting from the U.S. Attorneys' offices?

17. INS has reported to the Subcommittee that it has "60 proactive operations" targeting violent criminal alien groups within the state of California. In 1992, there were 95 prosecutions and more than 55 convictions. I'd like to see if I could get better information regarding the prosecutions which have occurred.

a. Alien smuggling has been a high visibility item. In 1992, how many of the 95 prosecutions and 55 convictions were for alien smuggling?

b. How many of these were of "ringleaders?"

c. How many of the 95 prosecutions and 55 convictions were for fraudulent INS document manufacturing, altering, and counterfeiting?

18. Earlier this year, INS reported that there were 19 Violent Gang Task Force investigations underway in California. What have been the results of these investigations? How many prosecutions and convictions have you obtained, and what were they for?

19. Los Angeles is the site of one of the Pilot Projects of the Organized Crime Drug Enforcement Task Force whose purpose is to investigate narcotics trafficking and violent crimes. Since the project has been underway, how many convictions have you gotten and for what crimes?

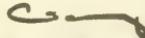
20. At Subcommittee hearings in March, witnesses were critical of backlogs and delays in the deportation proceeding process which result from administrative waste and inefficiency.

Would you please describe for us what, if anything, has been done during the last 6 months to identify and eliminate problems in the deportation process?

21. The Immigration Reform and Control Act of 1986 requires that the President submit a comprehensive report on immigration on a triennial basis. The report is supposed to include information regarding the undocumented aliens and the impact of immigration on education, social services, and the impacts on specific cases. A report was submitted in 1989. The next triennial report is overdue. When will this report be submitted?

Thank you for your assistance in this matter.

Sincerely,



Gary A. Condit
Chairman



**U.S. Department of Justice
Office of Legislative Affairs**

Office of the Assistant Attorney General

Washington, D.C. 20530

August 19, 1994

The Honorable Gary A. Condit
Chairman, Subcommittee on Information,
Justice, Transportation, and Agriculture
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding additional questions to the Subcommittee's hearing on August 31, 1993, on the Cost Impact of Immigration on Los Angeles and California. I apologize for the delay in our response.

Enclosed is our response to your questions. If we may be of further assistance, please do not hesitate to contact this office.

Sincerely,

Sheila F. Anthony
Sheila F. Anthony
Assistant Attorney General

Enclosure

QUESTION # 1:

In 1992, the Immigration and Naturalization Service issued a report entitled "Report on Criminal Aliens." It was supposed to contain information regarding the number of aliens incarcerated in penal institutions "who are not lawfully admitted to the United States." However, it did not contain any information regarding individuals in local jails. INS stated that it was continuing to receive and consolidate information regarding the number of aliens in local jails. What is the status of that project?

RESPONSE:

There is no federal or state tracking system in place that either captures or reliably assesses the size of the state criminal alien prison population, nor one that has the capability to accurately estimate the ratio of illegal to legal prisoners among that population. As a general practice, prison authorities identify non-citizens simply as foreign born nationals, without regard to legal/illegal status.

Given the limitations of its 1992 survey, the INS under the auspices of the Office of Management and Budget, has contracted with the Urban Institute to develop a valid statistical methodology. The goal of the study is to produce an accurate estimate of the number of illegal aliens incarcerated in the state correctional (or prison) systems in the seven most populous states. According to data gleaned from correctional authorities, 7 states (Arizona, California, Florida, Illinois, New Jersey, New York, and Texas) house approximately 80 percent of the total population of illegal alien prisoners. The Urban Institute's study expands the focus of correctional populations to the 7 states with the highest concentration of foreign-born inmates -- beyond the INS's original 5 state focus.

With limited resources, the INS is concentrating its efforts on identification and expeditious deportation of the incarcerated felon population in the state/federal penitentiary systems. Although some countries have provided information on foreign born persons in their jails, this survey remains incomplete. INS does not have the resources to survey this population. It is unable to respond systematically to a misdemeanor population of alien criminals in local jails.

QUESTION # 2:

President Clinton announced that INS plans to "deport up to 7,000 more criminal aliens by extending the Institutional Hearing Program."

What do you estimate is the total number of criminal undocumented aliens in California who are deportable?

RESPONSE:

There are approximately 18,000 convicted foreign-born criminals in California state prisons who are deportable. In addition, there are an estimated 2,100 foreign-born criminals in the 6 Federal correctional facilities located in the state. The actual number of deportable foreign nationals in local and county jail facilities is unknown. The INS has no mechanism at this time to differentiate between the number of undocumented criminal aliens and those aliens who have been lawfully admitted to the United States but are now amenable to deportation due to their convictions. Therefore, the cited numbers represent both those who entered the United States illegally and those who entered legally but subsequently became deportable due to criminal convictions.

QUESTION # 3:

Mr. Shaw testified in June that the Seely State Prison (Mt. Signal) institutional hearing program was scheduled to open in late 1993. Your testimony indicated that it is "scheduled to open in mid-1994." What has caused the slippage in dates?

RESPONSE:

The information provided by Mr. Shaw was the correct date. Seely State Prison has been renamed Centinela State Prison and opened in September 1993. A site visit was conducted by representatives of the Immigration and Naturalization Service and the Executive Office for Immigration Review. Deportation hearings started in 1994.

Question # 4:

You described the "operation double actions" to round up aliens who are on parole and have been convicted of serious crimes such as murder and rape.

Are any additional "double action" operations planned for California this year?

RESPONSE:

No such operation is planned exclusively for California. However, certain areas of California were included in a multi-agency task force operation called Operation Crackdown completed in July 1994. This enforcement initiative targeted alien fugitives wanted for narcotics, money laundering, and weapons violations and resulted in the arrest of over 400 criminal aliens.

QUESTION # 5:

I believe that it would be more productive to deport individuals before they are released into the community. We have been informed that INS is doing "everything possible" to insure that individuals are deported before they are released.

Would you please describe specifically what "everything possible" means for California state and county facilities that have illegal aliens?

RESPONSE:

We are in agreement that it is more productive and effective, as well as more protective to the community, to deport criminal aliens before they are released on probation and parole. INS special agents monitor the state penal institutions and major county jails to ensure aliens are immediately taken into INS custody upon their release.

The INS offices located in California have been working closely with state and local law enforcement agencies, as well as judiciaries, to have criminal aliens identified while still incarcerated. In this manner, the INS can take appropriate steps to ensure that criminal aliens are processed for removal from the United States prior to the completion of their sentence. Currently, there are four Institutional Hearing Programs (IHPs) being conducted within the State of California (one Federal, one county, and two state programs). These programs have proven to be extremely cost effective and efficient in the early identification and processing of criminal aliens for removal from the United States. Expansion of this program has been proposed and is currently under review. The IHP is an example of the state and INS working together to improve and streamline the deportation process, saving hundred thousands of dollars to Federal, state, and local governments.

Additionally, strong support for INS removal of criminal aliens has been received from the state, as evidenced by Executive Order B-91-91, signed by Governor Deukmejian, which mandates that California Department of Corrections "pursue an aggressive, cooperative agreement with INS to ensure an expedited deportation hearing process and the subsequent placement of deportation holds on undocumented aliens incarcerated in state prisons."

To meet the criminal alien challenges, INS has met with top state officials and representatives from California counties as part of a continuing effort to foster better working relationships. As a result of these efforts, California Department of Corrections (CDC) has generated and supplied monthly computerized listings of incarcerated foreign born inmates. Additionally, agreement has been reached with the state to access the CDC Offender Based Information System (OBIS). This automated data base provides

detailed, timely, and accurate information on every CDC inmate; to include biographic data, criminal history, past and current warrants and detainees, and specific conviction and updated release information.

The INS has opened a Criminal Alien File Center (CAFC) in California. This pilot project is the first of its kind within the INS, and specifically addresses the unique needs of the offices having jurisdiction over incarcerated criminal aliens within the State of California. This File Center acts as the clearinghouse of INS files associated with deportable criminal aliens within the state. It has proven to be a reliable and cost-effective method to ensure rapid identification and processing of criminal aliens through the IHP and deportation process.

These initiatives clearly demonstrate that the INS is doing everything possible to ensure our efforts in California comply with the criminal alien strategy goals.

QUESTION # 6:

Commander Chancellor testified that a "Federal initiative is urgently needed to establish a nationwide system for identifying and tracking criminal aliens based on computerized fingerprint technology".

a. What is the status of the Automated Fingerprint Identification System project currently underway?

b. What is planned next for the project and when will that occur?

RESPONSE:

a. Since 1990, the INS has been a member of the Western Identification Network (WIN), which provides access to over 18 million automated fingerprint records in state or local criminal systems. The INS also has the capability to register criminal aliens into the WIN data base. The project is known as the Western Region AFIS (Automated Fingerprint Identification System).

b. The INS and WIN have agreed to renew their contract for another year. The project has been restructured to enable the identification of more criminal aliens at the time of apprehension, leading to increased prosecutions for reentry after deportation, the detection of greater numbers of aliens with outstanding state and local warrants, as well as an increase in denials of social or immigration benefits to ineligible aliens.

Other automated fingerprint projects currently under consideration include:

- AFIS 2000, whose database will contain entries on every alien in the United States and will be accessible to INS personnel nationwide. The INS has requested \$38 million from next year's Crime Bill to support this project, which is in the planning stage.
- An agreement between the INS and the California Department of Justice (DOJ) to enter into the California DOJ database the fingerprints of all aliens processed through the Institutional Hearing Program. This initiative is in its beginning phase.
- Software AFIS Screening System (SASS), which is a local initiative dealing with recidivist criminal aliens encountered by the U.S. Border Patrol in the San Diego, California area. Currently, the system requires a very small database to operate successfully.

QUESTION # 7:

What is the status of the National Tracking Criminal Alien Center discussed on page 13 of your testimony?

RESPONSE:

On September 24, 1993, the INS forwarded a report proposing the National Criminal Alien Tracking Center (NCATC), renamed Law Enforcement Support Center (LESC), to the Department of Justice (DOJ). The Attorney General approved the proposal on October 28. The INS received Fiscal Year 1994 funding and commenced initial steps toward implementation. The pilot phase of the LESC operations began in July 1994.

QUESTION # 8:

Witnesses who testified in Merced proposed a program by which there would be a mandatory requirement for transfer of prisoners to their home countries. Some have even suggested providing a subsidy to the foreign country housing the prisoners.

How would you respond to this proposal?

RESPONSE:

The Deputy Attorney General has established a working group to explore and assess the legality and feasibility of involuntary prisoner transfers and related matters. First, other countries may not agree to mandatory transfer of their nationals or be willing to renegotiate their prisoner transfer treaties, which currently require the consent of the inmate. Most countries have no interest in accepting wholesale, with or without compensation, all or a large number of their nationals. Another serious concern is that there is no guarantee that they will enforce the sentences imposed in the United States. Prisoners may be prematurely released from custody and illegally re-enter this country, to the detriment of certainty in law enforcement and the well being of victims' families and communities.

Whether removing the element of consent would result in increased repatriation of alien offenders yet at the same time preserve the United States' strong interest in seeing offenders fully serve their sentences is a difficult question. Due to the significant number of foreign nationals incarcerated in the United States which greatly contribute to the overburdened prison systems, we will continue to study this issue in an effort to find an option that adequately addresses these and other concerns.

QUESTION # 9:

Assemblywoman Napolitano suggested that the Federal Government negotiate a new treaty with Mexico to build a prison in Mexico that will accommodate the prisoners now serving their sentences in California.

What do you think about that idea?

RESPONSE:

See our response to Question # 8, above.

QUESTION # 10:

You testified that INS is cooperating with Justice on the selection of immigration judges. Would you please tell us what your recommendation is for the number of new immigration judges in California?

RESPONSE:

At any given time, there are about 27,365 foreign-born inmates in California facilities, the large majority of whom are subject to deportation from the United States. We appreciate your interest in assisting the INS in its efforts to identify and process these inmates. The INS investigative and detention officer resources are stretched thin in responding to the work load. EOIR is keeping up with the Criminal Alien Program caseload and continues to monitor that caseload in order to keep current. EOIR is in the process of hiring three additional Immigration Judges (IJs) in California to be located at El Centro, San Diego and San Francisco. Upon completion of the hiring process, EOIR will have 22 IJs in California.

INS recommends an increase in new immigration judges for California, and elsewhere in the United States. In addition, INS recommends that Congress authorize more investigative, detention and trial attorneys.

We strongly support the Congressional mandate of making the deportation of criminal alien inmates quicker and more certain. Increasing the number of final deportation orders for criminal aliens before their release from incarceration will, over the longer term, save the taxpayers significant detention costs following incarceration, if the removal resources cited are made available.

The President's budget submission for Fiscal Year 1995 includes enhancements to deal with the criminal alien population in the state prison systems. Representatives from INS Headquarters and the EOIR were on site in California from June 27 through June 30 to review the proposed Institutional Hearing Program (IHP) Enhancement plan for the state and to work with state authorities on their commitment to an enhanced IHP in California. (The goal of the IHP enhancement is to accord 100 percent of the incarcerated criminal alien population deportation hearings prior to the completion of their sentences.) Specifically designed to address with the criminal alien population in the state prison system, this plan contains a staffing model that anticipates the enhanced work load. The INS and the EOIR have requested resources and will apportion those resources -- including trial attorneys, Investigations and Detention and Deportation personnel, and immigration judges -- respectively, according to this staffing model and those from the enhancement plans of Florida, Illinois, New York, and Texas. (These four states, along with California, are the five states originally designated as having the largest foreign-born inmate

populations.)

The California Department of Corrections estimates its foreign-born inmate population to be 27,365. Until INS officers screen that population for administrative deportation hearings as part of the IHP, neither the state nor the INS can say with any degree of reliability what portion of the population entered illegally or violated their status after legally entering the United States. Because we do not know the actual number of aliens subject to deportation, we cannot estimate the number of immigration judges needed to hear their cases.

QUESTION # 11:

You testified that California is "fully operational within the Five State Criminal Alien model." What has been specifically done to make it "fully operational" and what will we see now that is different than before?

RESPONSE:

The Five State Criminal Alien Model is an INS initiative to address the identification, detention, and removal issues associated with criminal aliens. It is an integrated, comprehensive, national strategy and implementation plan to work with the states in a coordinated effort to improve the overall methods of dealing with criminal aliens. This initiative builds and expands existing communication links with state and local officials through development of criminal alien tracking mechanisms, shared information systems, and cooperative agreements.

Through cooperation and coordination, the State of California and the INS have worked extremely well in the identification and removal of criminal aliens.

The initiatives highlighted in response to Question # 5, above, are indicative of the endeavors undertaken which make California fully operational under the guidelines of the Five State Criminal Alien Model. The expansion of the Institutional Hearing Program, the state Executive Order, the Criminal Alien File Center, and access to the California Department of Corrections (CDC) data base, are all prime examples of the cooperation and effort being put forth to expeditiously identify, process, and remove criminal aliens from the State of California. In addition, to further strengthen the alliance against criminal aliens, the state legislators have passed Senate Bill 691, banning local government "sanctuary" laws that prevent officials from notifying immigration authorities when undocumented immigrants are arrested for a crime. With these initiatives in place and new strategies being explored and developed, you will continue to see an increase in the number of deportable criminal aliens within the State of California.

QUESTION # 12:

In a statement submitted to the Subcommittee, Mr. Antonovich recommends that there be "joint power" agreements between local law enforcement and INS. Do you have any thoughts about his idea?

RESPONSE:

It is unclear what Mr. Antonovich means by the phrase "joint power" agreements. INS would be opposed to sharing of jurisdictional authority so that local law enforcement agencies would enforce United States immigration laws. Department of Justice guidelines require that only INS officers may interrogate and/or arrest aliens for suspected violations of Federal immigration laws. Local policing agencies granted immigration enforcement authority by legislation would still require the same rigorous training undergone by INS officers to develop the expertise needed to carry out their immigration duties. The specialized knowledge and skills of a United States Immigration officer cannot be imparted by mere deputization or through the enactment of legislation.

However, INS would support something akin to memoranda of understanding, whereby the INS and local law enforcement agencies participate in joint enforcement endeavors with each entity enforcing the laws under its current jurisdictional authority. The INS actively supports this type of concerted operational activity.

QUESTION # 13:

Supervisor Deane urged more funding of the Border Patrol. On the other hand, the GAO testified in March that the "proportion of total Border Patrol Agent time devoted to border control activities decreased from 71 percent to 60 percent from 1986 to 1991". What has INS done this year to insure that more agent time is spent patrolling the border?

RESPONSE:

During the timeframe referenced, 1986-1991, demands of the Immigration Reform and Control Act drew Border Patrol resources away from border control. Currently, the strategy for enhanced enforcement operations focuses manpower along the immediate border. In fact, all new Border Patrol trainees are dedicated to the immediate border areas. Additionally, the INS has received substantial support from the Department of Defense, allowing more manhours to be dedicated to border control. The INS has also embarked on multi-agency efforts which further reduce the number of manhours that agents are away from the primary mission of border control.

QUESTION # 14:

The Subcommittee received testimony from the National Council of La Raza that representatives of the Border Patrol had told them that in the interest of beefing up their apprehension numbers, they had been told not to stand or present themselves in such a way as to provide a deterrent to people on the other side of the border who seek to come in, but rather to wait on this side of the border until they come in and then catch as many of them as possible to get better apprehension statistics.

In an earlier response submitted to the Subcommittee, INS says that there are "operational" reasons for staying back from the border.

a. Would you please explain those reasons?

b. What action has been taken to insure that the practice is not being done to increase apprehension statistics?

RESPONSE:

a. In the past, Border Patrol units were forced away from the immediate border because of the dangers encountered in the area. Persons in Mexico frequently threw rocks, bottles, and pieces of wood at agents patrolling the boundary. Several agents have been severely wounded during these incidents, and a substantial amount of physical damage has been incurred to Border Patrol vehicles, as a result. In many areas of the southwest, it is physically impossible to work along the international boundary due to geographic features which preclude patrolling in vehicles. Also, in many cases the sheer volume of persons attempting to illegally enter the United States has forced the deployment of manpower into those areas where they can be best utilized and most effective to accomplish the mission.

b. There has not been a need, in the past or today, to develop a strategy to increase apprehension statistics. The Border Patrol has apprehended in excess of one million persons per year for the past several years. Rather than attempt to increase apprehensions, the Border Patrol seeks to decrease them through control of the border and thereby reducing the number of illegal entries.

QUESTION # 15:

You testified to the prosecution of 123 re-entry cases in the past 2 1/2 years. Is that about the right number of cases that should be prosecuted or should more be prosecuted?

RESPONSE:

The right number of cases that should be prosecuted depends on the United States Attorney's evaluation of the legal and factual merits of the matters referred and the allocation of limited prosecutorial resources based on national and district priorities. The decision as to whether a criminal matter referred by a Federal investigative agency ought to be prosecuted is within the sole discretion of the United States Attorney.

QUESTION # 16:

What would you tell new U.S. Attorneys should be done to improve the assistance that the INS is getting from the U.S. Attorneys' offices?

RESPONSE:

When a new United States Attorney is appointed, the appropriate INS District Director and appropriate senior staff ought to make every effort to meet with the United States Attorney and his/her senior staff to discuss issues of mutual interest, the prosecution of criminal aliens and immigration violations being among those.

Federal investigative agencies and prosecutors are not adversaries but are rather part of a large team. The INS recognizes that United States Attorneys are called upon to accept many matters for prosecution from a wide variety of Federal investigative agencies and that the INS is only one of them.

Nonetheless, criminal aliens are a serious problem for the nation and it is imperative that the INS explain this problem to the United States Attorney. Once the facts are known, the INS and United States Attorney ought to evaluate how best to utilize the limited resources which each agency has at its disposal in order to achieve the most effect on crime and criminal aliens.

Finally, the local District Director ought to strive to achieve a lasting and personal relationship with the United States Attorney so that the two can address issues of importance in a joint cooperative fashion.

QUESTION # 17:

INS has reported to the Subcommittee that it has "60 proactive operations" targeting violent criminal alien groups within the state of California. In 1992, there were 95 prosecutions and more than 55 convictions. I'd like to see if I could get better information regarding the prosecutions which have occurred.

a. Alien smuggling has been a high visibility item. In 1992, how many of the 95 prosecutions and 55 convictions were for alien smuggling?

b. How many of these were of "ringleaders?"

c. How many of the 95 prosecutions and 55 convictions were for fraudulent INS document manufacturing, altering, and counterfeiting?

RESPONSE:

a. In California, during 1992, 21 prosecutions were authorized and 5 convictions were obtained for alien smuggling.

b. The INS tracks the number of defendants prosecuted/convicted but does not maintain a statistical count of "ringleaders" prosecuted/convicted. The seriousness of the crime is determined by the charges and the sentence imposed by the Court. Except in press releases, we do not distinguish criminal defendants by hierarchy.

c. In California, during 1992, 193 Federal prosecutions were authorized for forging, counterfeiting, or altering visas or related entry documents. 193 convictions were obtained, however, some of these convictions may relate to cases prosecuted in FY 1991. Similarly, some convictions for prosecutions brought in FY 1992 will not be reflected until 1993.

QUESTION # 18:

Earlier this year, INS reported that there were 19 Violent Gang Task Force investigations underway in California. What have been the results of these investigations? How many prosecutions and convictions have you obtained, and what were they for?

RESPONSE:

Thus far, Violent Gang Task Force (VGTF) investigations in California have resulted in authorization of the following Federal prosecutions: 9 for various credit card or ATM violations, 1 for mail fraud, 187 for reentry after deportation or entry without inspection, 40 for narcotics violations, 3 for alien smuggling, 3 for firearms violations, and 2 for unspecified Immigration violations (sealed indictment). The following state prosecutions were also pursued: 10 for credit card fraud, 1 for burglary and forgery of an access card, and 3 for narcotics violations. While several prosecutions are still pending, Federal convictions have been obtained in 5 cases for reentry after deportation, 1 case for use of a counterfeit credit card, 2 for possession of a firearm by an illegal alien, and 39 for narcotics violations (including the transportation and sale of heroin). State prosecutions have resulted in 5 convictions for fraud and theft relating to the credit cards or ATM devices, and 3 for narcotics violations.

In addition, VGTF investigations in California have resulted in the arrest of approximately 400 illegal aliens, many of whom are convicted aggravated felons, and the seizure of more than 400 pounds of cocaine, nearly 1400 grams of tar heroin, 59 pounds of marijuana, and several rifles and semi-automatic handguns.

QUESTION # 19:

Los Angeles is the site of one of the Pilot Projects of the Organized Crime Drug Enforcement Task Force whose purpose is to investigate narcotics trafficking and violent crimes. Since the project has been underway, how many convictions have you gotten and for what crimes?

RESPONSE:

The efforts of the Organized Crime Drug Enforcement Task Force (OCDETF) Pilot Project at Los Angeles have resulted in 345 convictions for violations of Title 21 (narcotics); and Title 8 (Immigration), including passport fraud and reentry after deportation.

QUESTION # 20:

At Subcommittee hearings in March, witnesses were critical of backlogs and delays in the deportation proceedings process which result from administrative waste and inefficiency.

Would you please describe for us what, if anything, has been done during the last 6 months to identify and eliminate problems in the deportation process?

RESPONSE:

The INS has initiated electronic scheduling of immigration judge hearings (with the cooperation of the Executive Office for Immigration Review) at selected sites, such as New York (JFK airport), Brownsville, Texas, San Diego, and Chicago; worked to increase detention bed capacity at selected sites, such as Eloy and Florence, Arizona, El Centro, California, Miami (Krome), El Paso, San Francisco, and Buffalo; proceeded with a pilot telephonic IHP program at Portland, Oregon; began a video teleconference pilot project at FCI Lexington; and worked with the Executive Office for Immigration Review (EOIR) in drafting a regulation permitting immigration judges to enter uncontested stipulated orders of deportation or exclusion without a hearing.

In addition, the Administration has initiated or supported a number of recent legislative proposals which provide for the expedited exclusion of certain undocumented aliens, streamline deportation and exclusion hearings by electronic (telephonic/video) means, restrict defenses to deportation for certain criminal aliens, expand forfeiture for smuggling or harboring illegal aliens, and increase penalties for immigration criminal offenses.

All the above measures are designed to make the deportation of criminal aliens quicker and more certain.

QUESTION # 21:

The Immigration Reform and Control Act of 1986 requires that the President submit a comprehensive report on immigration on a triennial basis. The report is supposed to include information regarding the undocumented aliens and the impact of immigration on education, social services, and the impacts on specific cases. A report was submitted in 1989. The next triennial report is overdue. When will this report be submitted?

RESPONSE:

Section 401 of IRCA mandates that the President submit triennial reports to Congress on immigration to the United States. In February 1992, the President delegated authority for this report to the Attorney General and the Secretary of Labor. The triennial reports are to include data on alien admissions; estimates of illegal immigration; and a description of the impact of legal immigration on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, on the rate, size, and distribution of population growth in the United States, and the impact on specific states and local units of government where large numbers of aliens settle.

We are currently preparing the second triennial report which will cover FYs 1988 - 1991. Including the fourth year of immigration data (1991) in the second triennial report will complete analysis of immigration under the 1965 Act and enable the third report to focus on admissions under the new immigration system.

Detailed data on the foreign-born from the 1990 Census was only recently available for analysis. The INS and the Department of Labor are now completing preparation of the second report. Once completed and cleared, the report will be submitted to Congress by the end of 1994.

KAREN L. THURMAN
5TH DISTRICT, FLORIDA
TOLL FREE
1-800-833-4352



WASHINGTON OFFICE
130 CANNON BUILDING
WASHINGTON, D.C. 20515
202/225-1002

COMMITTEES
AGRICULTURE
GOVERNMENT OPERATIONS

Congress of the United States
House of Representatives
Washington, DC 20515

February 4, 1994

Mr. Ralph Thomas
Office of Congressional Affairs
INS
425 Eye Street N.W.
Washington, DC 20536

Dear Mr. Thomas:

I am enclosing a copy of correspondence that I have received from the Florida Advisory Council on Intergovernmental Relations (ACIR) concerning problems with identifying costs associated with new arrivals in Florida.

I direct your attention to recommendations 10-13, which discuss cooperation and data exchange between the IRS and state agencies. Any assistance that you can provide that addresses these requests or statutory language that prevents INS's providing this data would be appreciated.

I look forward to your prompt response.

Sincerely,

COPY

Karen L. Thurman
Member of Congress

KLT\bd
enc.

HOME OFFICES

2224 HIGHWAY 44 WEST
INVERNESS, FL 34453
904/344-3044

5700 SW 34TH ST SUITE 426
GAINESVILLE, FL 32608
904/336-6614

5623 U.S. 19 SOUTH, SUITE 206
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Speaker



The Florida Legislature
**FLORIDA ADVISORY COUNCIL
ON INTERGOVERNMENTAL RELATIONS**

House Office Building, Tallahassee, FL 32399-1300 Ph. (904)488-9627 Suncom 278-9627 Fax 487-6587

January 12, 1994

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Representative Thurman
Page Two
January 12, 1994

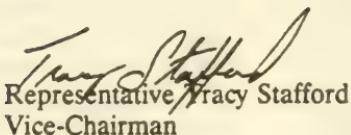
Recommendations 10-13 identify activities that require Congressional action that would improve the state's ability to more accurately calculate the number of Florida's Newcomers and their fiscal impact on state and local entities.

We would appreciate your review of these possible federal actions and advising us accordingly.

Sincerely,



Senator Fred R. Dudley
Chairman



Tracy Stafford
Representative Tracy Stafford
Vice-Chairman

Enclosure

Recommendation 5: The Department of Education shall maintain records on the amount of federal funding it receives for Newcomer programs, the distribution of funds among eligible school districts, and the amount of state general revenue and that is distributed to each school district as a result of Newcomer student FTE for basic education and for all other special education programs. The Department shall identify any additional funding and sources of funding special education programs in which Newcomer students are enrolled. The Department shall provide the designated entity with a report on these expenditures on a routine basis.

Rationale: Current Department recordkeeping procedures do not allow for identification of Student enrollment in specialized educational programs. In addition, the mix of federal state and local funding for basic and special educational programs in which Newcomer students are enrolled is unclear.

Recommendation 6: The Florida Department of Corrections, in conjunction with the Department of Law Enforcement, shall develop written plans for the coordination with the U.S. Justice Department and Immigration Naturalization Services in regards to notification of incarceration of aliens and for the use of state correctional facilities for holding deportation hearings of criminal aliens.

Rationale: Currently, Florida Department of Corrections notifies INS whenever an individual is sentenced to a state correctional facility who is identified or suspected of being an alien. This process has evolved into an informal arrangement between Department staff and the INS. In addition, the U.S. Department of Justice conducts deportation hearings in 7 of Florida's correctional facilities without benefit of any written agreement, based on information provided by the Office of the Secretary of the Department of Corrections. Any agreed upon relationship between state agencies and the U.S. Justice Department that entails the interviewing and possible deportation of aliens should be documented and approved in written form. Currently, the Florida Department of Law Enforcement is responsible for maintaining the Florida Criminal Justice Information System. The Department of Law Enforcement should ensure that the system contain all appropriate information to assist in the early identification of criminal aliens and to record findings and final disposition subsequent to the deportation hearing for each criminal alien.

Recommendation 7: The legislature should authorize the Department of Corrections to release custody of criminal aliens who are incarcerated in Florida Correctional Facilities to the U.S. Justice Department for the purpose of deportation of the criminal alien.

Rationale: Currently, Florida Statutes do not permit the Department of Corrections to release criminal aliens incarcerated in Florida prisons to the U.S. Justice Department for the purposes of deportation any earlier than they would ordinarily be released. Such early releases would save the state the costs of incarceration of these individuals and provide space for additional offenders.

Recommendation 8: The Florida Department of Law Enforcement should identify the information on the citizenship status as a mandatory element of the Offender Based Transaction System (OBTS).

Rationale: Currently, the data element in the OBTS that identifies the citizenship status of individuals is identified as a voluntary data field. Listing the citizenship status of the individual in the OBTS is left up to the discretion of individual local agencies. Requiring that this information be provided for each individual included in the OBTS will assist in the development of an impact assessment from Newcomers on state and local criminal justice systems.

Recommendation 9: The legislature should require, with adequate funding for both capital outlay and operations, that all appropriate state and local agencies participate in the OBTS and maintain accuracy of information contained in the system on a timely basis. The Department of Law Enforcement shall provide an annual report that includes the names of local agencies that are not complying with the requirements of the OBTS and other information as required to the entity designated in recommendation 1.

Rationale: Based on information provided by the Department of Law Enforcement, only 60 of 67 counties currently participate in some aspect of OBTS. Requiring that each local agency participate in the OBTS will assist in the development of an impact assessment on state and local criminal justice systems from Newcomers.

Recommendations affecting state-federal relations regarding Newcomer issues.

Recommendation 10: The Legislature should request that agreements between Florida and the federal government, including INS, be established to provide states with information on size and other requested demographic characteristics of Newcomer populations on an ongoing basis.

Recommendation 11: The Legislature should request that INS tapes on Newcomer populations be available to states at no charge.

Recommendation 12: The Legislature should request funding to conduct targeted population surveys of Newcomers to identify estimates of Newcomers and undocumented aliens. Surveys should be limited to areas assumed to have heaviest concentration of Newcomers within the state.

Recommendation 13: The Legislature should request that the federal government establish a policy where states could legitimately estimate costs and receive reimbursements for services provided to Newcomers, including undocumented aliens.

Rationale for recommendations 10 - 13: The federal government is responsible for the creation of immigration policy, immigrant program policy, securing the borders of the country, and for collecting and maintaining records and other census information on

6) evaluate the impact of undocumented immigrants on Florida's health care system with attention to this population's inclusion and exclusion from the proposed federal governments health care policy and the health care program coverage that is extended by the State of Florida.

7) serve as the State of Florida's liaison in Newcomer issues to all federal agencies and to Florida's Washington delegation.

Rationale: Currently, the Office of Refugee Program Administration within the Department of Health and Rehabilitative Service collects information on refugee programs that are administered by the Department. Information on programs serving other types of Newcomers, or that are administered by other agencies are not necessarily forwarded to the Refugee Administration Office. Information regarding Newcomers that is collected by other state agencies is not reported to any single entity. In addition, with the exception of federally funded or partially funded programs, Florida does not verify the immigration status of individuals who access state and local services. Although the federal government maintains an extensive list of Newcomers by name and identification number, it is unknown whether, and the extent to which, states may access that information to verify immigration status of state and local service consumers. Such information would assist in the calculation of the costs incurred by state and local agencies from services accessed by Newcomers and in assessing the contributions of Newcomers to the state government and local communities.

The creation of a Commission with authority to employ fulltime staff emphasizes the Council's belief that: 1) the functions performed by the designated entity is a priority to the State of Florida, and 2) that a concerted effort by trained staff is required to adequately address the assigned duties. The functions currently performed by the Florida Consensus Estimating Conferences are consistent with the need to calculate similar estimates for costs incurred by Newcomer populations by state and local entities and the estimate of contributions by Newcomers to the state and to local communities where Newcomers reside. It is anticipated that additional resources must be available in order for these new responsibilities to be adequately addressed. The anticipated role performed by the Florida State-Federal Relations Office represents a continuation of their existing responsibilities and acknowledges the advantage of utilizing a single established office to gather and disseminate information between the federal government and the designated entity.

Recommendation 4: The Florida Departments of Law Enforcement and Corrections shall submit monthly reports regarding the arrest, local detention, or state incarceration of Newcomers to the designate entity.

Rationale: Although this information is routinely collected by these state agencies, it is not always readily accessible. The development and forwarding of such monthly reports would necessitate better record management on the part of the Departments, reinforce the importance of maintaining accurate records, and provide current information on the impact of Newcomers to law enforcement and detention facilities.

Recommendations approved by ACIR, 11-29-93

Recommendation 1: Includes items to be completed and included in final report.

Recommendation 2: Publish research report jointly with the Intergovernmental Affairs Policy Unit within the Office of the Governor.

Recommendation 3: In order to address the tasks identified in the following list, the Florida Legislature should designate an entity as the state clearinghouse on all Newcomer issues. This entity should exist as a Joint Commission or Commission with members appointed by the Leadership of the Legislature and by the Governor or this could be done as part of the existing Florida Estimating Consensus Conferences or a new conference assigned responsibilities pursuant to s. 216.136, F.S. If a Commission or a Joint Commission is established, the Governor's appointments must include local elected officials from municipal and county governments from a list of nominees provided by the Florida Association of Counties and the Florida League of Cities. Consistent with responsibilities assigned in s. 14.23, F.S., the Florida State-Federal Relations Office, within the Executive Office of the Governor, shall coordinate activities with the designated entity including the collection and dissemination of relevant information and assist in monitoring of proposed federal legislation that would impact funding levels of current Newcomer programs. If a single entity is so created, it should report to the Florida Legislature, Governor, and Cabinet. Responsibilities of this entity should include the following seven duties. Those responsibilities appropriate for consensus estimating conferences include number 2, 3, 5, and 6.

- 1) identify and maintain population figures for Florida Newcomers as provided by INS records and publications and from any other identified sources;
- 2) develop and maintain an inventory of all federal programs available to Newcomers, grant amounts for those programs, any state and local match requirements, the amount of state and local discretion afforded by each program, and the amount of program funding provided to governmental and nongovernmental entities;
- 3) develop and maintain an inventory of all governmental services accessed by Newcomers that are reported to state agencies. (At a minimum, information shall be collected from the Florida Departments of Corrections, Education, Health and Rehabilitative Services, Highway Safety and Motor Vehicles, and Law Enforcement);
- 4) monitor proposed federal legislation that would impact funding levels of current Newcomer programs and advise the Leadership in the House and Senate, the Governor, and Cabinet of proposed recommendations;
- 5) identify federal data banks on Newcomers and propose methods for accessing that information in order to verify immigration status of individuals who utilize state and local services and programs, and

Newcomers. State and local governments are responsible for providing services and programs for residents within their respective political jurisdictions. State and local governments require information and resources for the planning and implementation of programs that serve state and local residents. State and local governments require the cooperation and coordination with federal agencies, including INS, in order to provide adequate services to Newcomers without jeopardizing the quality and continuity of existing services afforded to residence at the state and local levels.

Recommendation 14: The Chairman of the Florida Advisory Council on Intergovernmental Relations shall communicate recommendations from the Council's Newcomer Study to the Florida Washington Delegation and express the importance of recommendations 10 - 13 and the necessary action required by Congress for the implementation of these highlighted recommendations. In addition, the Chairman or his designee, shall participate in discussions regarding the Council's Newcomer Study, the recommendations, and related issues during the Florida Washington Delegation roundtable discussion in February, 1994.



**U.S. Department of Justice
Immigration and Naturalization Service**

Office of the Commissioner

425 Eye Street N.W.
Washington, D.C. 20536

CO 703.2030

The Honorable Karen L. Thurman
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Thurman:

Thank you for your letter of February 4, with enclosures requesting information for the Florida Advisory Council on Intergovernmental Relations (ACIR) regarding their Newcomer program. You specifically wish us to address numbers 10 through 13 of the ACIR recommendations.

10. Statistical information is available from the Immigration and Naturalization Service (INS) to any State or Federal agency that requests it.
11. The INS does not have tapes available to States at no charge. We can provide statistical reports at a modest fee. At this point in time, Government agencies do charge each other for information, expected to be self-funding through user fees.
12. This question requires information not within the purview of INS.
13. The INS is not directly involved in the funding of or reimbursement for services provided to newcomers or undocumented aliens.

We appreciate your interest in this matter. If we may be of assistance in the future, please do not hesitate to communicate with this office.

Sincerely,

FOR THE COMMISSIONER

Ralph B. Thomas
Acting Director
Congressional & Public Affairs

Congress of the United States
House of Representatives
Washington, DC 20515

March 17, 1994

The Honorable John Joseph Moakley
The Honorable Gerald B. H. Solomon
Committee on Rules
H-312 U.S. Capitol
Washington, DC 20515

Dear Chairman Moakley and Ranking Member Solomon:

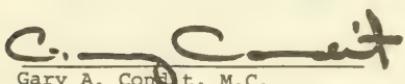
As you consider the crime bill as marked-up by the House Committee on the Judiciary, we strongly urge you to rule in order an amendment that will be brought to your consideration by Congressman Gary A. Condit (D-CA).

This amendment would require the federal government to either reimburse state and local governments for the costs of incarcerating criminal aliens or to take custody of these prisoners. Similar language was included in the crime bill approved by the Senate.

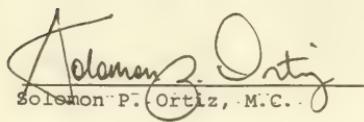
We believe that the federal government has a responsibility to take these actions. The numbers of undocumented criminal aliens incarcerated in state and local facilities has a direct and negative impact on local law enforcement efforts to keep violent criminals behind bars and police on the streets.

It is of key importance that this amendment be given consideration on the House Floor.

Sincerely,

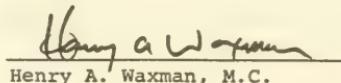

Gary A. Condit, M.C.


Karen L. Thurman, M.C.


Solomon P. Ortiz, M.C.


Tom Lewis, M.C.


Esteban E. Torres, M.C.


Henry A. Waxman, M.C.

APPENDIX 4.—THE UNFAIR BURDEN: IMMIGRATION'S IMPACT ON
FLORIDA

THE UNFAIR BURDEN:

Immigration's Impact on Florida



MARCH 1994

Prepared by:

**EXECUTIVE OFFICE
OF THE GOVERNOR**

and

**FLORIDA ADVISORY COUNCIL ON
INTERGOVERNMENTAL RELATIONS**



LAWTON CHILES
GOVERNOR

STATE OF FLORIDA

Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

The Honorable Pat Thomas,
President
Members of the Senate

The Honorable Bolley Johnson,
Speaker
Members of the House of Representatives

Honored Members:

Last May, you passed and I signed into law Senate Bill 1802, directing my Office of Planning and Budgeting to determine how much it costs our state and local governments to provide critical services to immigrants.

The accompanying report provides a detailed breakdown of the staggering costs that Florida's citizens must pay as a direct result of federal immigration policy. It offers a number of recommendations, including those adopted by the Advisory Council on Intergovernmental Relations that I feel merit your attention. While we remain proud of our immigrant heritage — both as a state and a nation — the following pages clearly illustrate that the federal government must change either its immigration policies or its funding priorities and remove this unfair burden from the backs of Floridians.

As you know, I have asked Florida Attorney General Bob Butterworth to file suit against the federal government on behalf of the state. I believe that our case is further dramatized by the findings in this report and I am forwarding a copy to Attorney General Janet Reno along with several other officials in Washington, D.C.

I intend to pursue this issue — with every branch of government — until Florida is adequately reimbursed for services provided to our immigrant population. I hope that I can count on legislative support in the days and months ahead to convince the federal government to do what is right for our state and our people.

With kind regards, I am

A handwritten signature in black ink, appearing to read "Lawton Chiles".

Honorable Lawton Chiles
Governor of Florida

EXECUTIVE SUMMARY

Purpose

Immigration has long been an important part of life in Florida, and has affected a wide range of societal concerns such as education, health care, urban planning and law enforcement. It has also changed many of our social institutions as well as our political culture. In 1993, the Legislature passed, and the Governor signed into law, a bill which required a comprehensive study which would focus primarily on the economic impact of immigrants on state and local finances over the past decade. Assistance in aggregating information from local governments throughout the state was provided by the Florida Advisory Council on Intergovernmental Relations. This report is designed not only to be a culmination of facts and figures which examine the fiscal dimension, but also to offer some perspective on how immigration has changed the lives of nearly every Floridian.

Background

Due in part to Florida's geographic location, it has become the gateway for many people seeking refuge from economic or political turmoil in the Caribbean, as well as South and Central America. In 1980, the Mariel boatlift brought many thousands of individuals to the shores of the United States, but more importantly, to Florida's shores. During the last fourteen years, Florida has been the destination of a disproportionate number of immigrants, and each wave has further strained the state's resources as well as its ability to assist these individuals and assimilate them into their communities. Although immigration policy is the sole jurisdiction of the United States government, states and localities are typically left with the cost and responsibility of providing essential programs, ranging from social services to educating children to speak a new language and understand a new culture. It is vitally important for policymakers throughout the state to have complete and accurate information on the economic and social impact of immigration. These data will assist Florida to effectively petition the federal government to shoulder a more equitable share of costs which fall disproportionately on a small number of state and local jurisdictions.

In Fiscal Year 1992, the United States government granted approximately two million individuals legal, permanent residence. Nearly eighty percent of these legal immigrants chose seven states in which to locate, including California, Arizona, Texas, Illinois, New York, New Jersey, and Florida. Overall, Florida receives approximately eight percent of the total legal immigrants into the United States each year, the majority of whom come from five countries: Cuba, Haiti, Jamaica, Columbia, and Canada*.

Illegal immigration to the United States and the State of Florida is a vastly different situation. The statistics are considerably less precise, due in part to poor recordkeeping and the fact that although undocumented immigrants access a number of public programs and services, they usually remain an invisible part of our society. An additional difficulty in assessing the impact and cost associated with illegal immigration is brought to light in a recent report from the General Accounting Office (GAO). Utilizing the Immigration and Naturalization Service (INS) and Mexican Census data, GAO estimated the maximum number of undocumented aliens in the United States is 3.4 million. The U.S. Census Bureau has estimated the total number of undocumented aliens at 4 million. However, because of the flow of undocumented immigrants entering and departing across national boundaries, this number will vary almost daily.

Assimilating the most recent data available on every classification of immigrant to the United States, and determining associated costs which state and local governments incur as a result, is not a precise science. However, several findings indicate that immigrants have a significant fiscal impact on available government resources.

It is estimated that in fiscal year 1993, the cost of undocumented aliens to the state of Florida was over \$262 million, while the amount expended at the local level was over \$622 million. The combined total of \$884 million is a conservative figure. The actual cost of undocumented immigration is likely to be even higher, but is very difficult to calculate.

*Source: Immigration and Naturalization Service.

Objectives, Scope and Methodology

This study is designed to respond to three primary charges:

- (1) Identify documented costs incurred by the state and its local governmental units resulting from services provided to non-citizen residents of the state from the period 1980 - 1993;
- (2) Examine federal immigration related grants and other reimbursements during the same period, and;
- (3) Develop a series of recommendations for strategies which assist the state in obtaining increased federal support for costs incurred.

The initial step in the development of this report was to examine the universe of documents and studies which had been completed on this topic. Particular attention was paid to studies in New Jersey, and in San Diego and Orange County, California. Secondly, extensive interviews were conducted with appro-

priate state agencies and numerous local officials throughout the state, and all available records were carefully examined and recorded. Finally, an array of federal and private agencies including the Immigration and Naturalization Service (INS), the U.S. Census Bureau, the U.S. Coast Guard, the United Nations Population Fund, the World Bank and offices within the U.S. Congress were contacted. Each provided substantive records and statistical data on immigration related court decisions, federal statutes, population estimates, and other data pertinent to this study.

The cost figures contained in this report are both documented and estimated unreimbursed expenditures incurred by Florida state government and local units of government throughout the state. It is important to acknowledge the limitations of providing precise numbers in aggregating information for this report. There are few requirements of government agencies and school districts to determine the immigration status of the clientele they serve.

**Table 0-1
Documented Immigration-Related Costs to Florida State Government
MILLIONS OF DOLLARS**

DEPARTMENT/PROGRAM	POPULATION IDENTIFIED	FISCAL YEARS														
		1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	TOTAL
EDUCATION																
ENGLISH FOR SPEAKERS OF OTHER LANGUAGES	LIMITED ENGLISH PROFICIENT*								\$56.8	\$89.4	\$132.7	\$195.6	\$226.0	\$254.2	\$954.7	
SCHOOL NUTRITIONAL FOOD PROGRAM	LIMITED ENGLISH PROFICIENT*	\$0.6	\$0.7	\$0.8	\$0.7	NA	NA	\$0.8	\$0.8	\$0.9	\$0.9	\$0.9	\$1.2	\$1.2	\$10.2	
ADULT EDUCATION \$	LIMITED ENGLISH PROFICIENT*												\$23.5	N/A	\$23.5	
PUBLIC INFRASTRUCTURE	NON-CITIZENS	\$2.2	\$3.0	\$3.6	\$5.6	\$5.2	\$4.6	\$6.1	\$11.1	\$14.1	\$12.8	\$13.3	\$18.1	\$20.6	\$24.4	\$142.5
TOTAL EDUCATION		\$2.8	\$3.7	\$4.4	\$6.3	\$5.2	\$4.6	\$6.9	\$11.1	\$17.1	\$146.9	\$214.6	\$271.3	\$279.8	\$1,130.9	
AGENCY FOR HEALTH CARE ADMINISTRATION																
MEDICAID **	NON-CITIZENS									\$20.1	\$16.8	\$11.7	\$9.9	\$11.7	\$70.3	
MEDICAID ***	UNDOCUMENTED ALIENS									\$0.7	\$1.1	\$2.3	\$3.6	\$5.2	\$12.5	
HEALTH AND REHABILITATIVE SERVICES																
AID TO FAMILIES WITH DEPENDENT CHILDREN	CITIZEN CHILDREN OF ILLEGAL ALIENS											N/A	\$2.6	\$3.1	\$11.9	
AID TO FAMILIES WITH DEPENDENT CHILDREN \$	REFUGEES											\$0.1	\$0.2	\$0.1	\$0.4	
FOOD STAMPS ADMINISTRATION \$	NON-CITIZENS											\$4.0	\$4.7	\$4.8	\$10.3	
OTHER ***	MULTIPLE POPULATIONS														\$12.4	
TOTAL HRS												\$4.1	\$7.7	\$14.0	\$38.2	
CORRECTIONS																
MARIEL REIMBURSEMENT PROGRAM \$	ENTRANTS								\$8.8	\$8.6	\$8.9	\$11.4	\$7.2	\$9.5	\$92.8	
OTHER INCARCERATIONS \$	NON-CITIZENS								\$13.8	\$17.8	\$20.2	\$24.8	\$26.4	\$27.7	\$130.7	
PROBATION AND PAROLE	NON-CITIZENS	\$0.1	\$0.2	\$0.4	\$0.7	\$1.0	\$1.2	\$1.4	\$1.9	\$2.5	\$2.7	\$3.6	\$4.7	\$5.1	\$58.8	
PUBLIC INFRASTRUCTURE	NON-CITIZENS	\$0.1	\$0.7	\$0.5	\$1.4	\$1.5	\$1.2	\$0.1	\$1.5	\$4.3	\$3.1	\$5.1	\$6.9	\$0.1	\$62.3	
TOTAL CORRECTIONS		\$0.2	\$0.9	\$0.9	\$2.1	\$2.5	\$2.4	\$1.5	\$3.4	\$29.4	\$32.2	\$38.8	\$45.8	\$59.8	\$60.2	\$250.0
TOTAL ALL DEPARTMENTS		\$3.6	\$4.6	\$5.3	\$8.4	\$7.7	\$7.0	\$8.3	\$13.1	\$101.0	\$155.4	\$202.7	\$276.3	\$328.7	\$355.7	\$1,489.5

* Over the last two years, approximately 60% of all Limited English Proficient students have been United States citizens.

** The dollar amounts indicated for undocumented aliens is a subset of the total for non-citizens.

*** The data collected were not broken out by individual year.

† English for Speakers of Other Languages - data unavailable until Fiscal Year 1988; Adult Education - data unavailable until Fiscal Year 1992; Medicaid - data unavailable until Fiscal Year 1989; Aid to Families with Dependent Children - costs were 100% reimbursed until 1991; Food Stamps Administration - data unavailable until Fiscal Year 1991; Mariel Reimbursement Program - program did not exist until 1988; and, Other Incarcerations - data unavailable until Fiscal Year 1988.

Note: Numbers may not add due to rounding.

Office of the Governor Intergovernmental Affairs Policy Unit

Principal Findings

 During the most recent fiscal year, total documented costs to the state of Florida which were directly attributed to immigration were \$355.7 million. Since 1980, the aggregate total cost is nearly \$1.5 billion (see Table 0-1). These numbers are base figures. Estimated costs to the state over the same period are much higher. Based upon various formulas, the State of Florida expended over \$751 million in fiscal year 1993, and has expended an average of \$651 million per year over the last five years (see Table 0-3) for a total of \$3.25 billion since 1989. If the cost to local governments is added, the total exceeds \$2.5 billion per year (see Table 0-2). These expenditures fall primarily into four broad categories: education, health care, human services and corrections.

In commissioning this study, the Florida legislature requested information on immigration related costs from 1980. That task has been completed to the extent possible. Recordkeeping on immigration status and costs at both the state and local levels of government is generally poor. This is due in part to a lack of incentive to maintain this type of data, emphasis on providing the service without asking a series of questions which may be considered invasive, and, most importantly, a series of legal decisions and agreements which prevent, or make difficult, governmental units from obtaining certain information from non-citizens. For example, in the field of education, the Multicultural Education Training Advocacy, Inc. agreement or "META" Consent Decree, which was signed by the Florida Department of Education and the State Board of Education in 1990, is most prominent. This document essentially prevents local school districts from obtaining the immigration

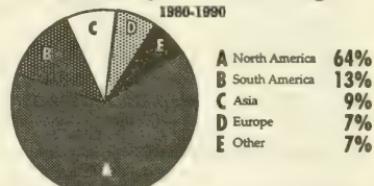
status of its students with two exceptions, the Emergency Immigrant Education Program and refugee education programs.

These types of barriers make it difficult to obtain comprehensive and precise information necessary for federal reimbursement purposes.

 Immigration will have a significant impact on Florida's future. In 1940, 70 percent of immigrants to the United States arrived from Europe. By 1993, only 15 percent originated in Europe. The vast majority, 44 percent, emigrated to the United States from Latin America and the Caribbean. The most popular destination for most of these individuals has been south Florida. In Hialeah, Florida, seven out of ten residents are foreign born. In Miami, the figure is 60 percent, and in Miami Beach, 51 percent. Many of these new arrivals are young, and require special help in the area of language training as well as other types of assistance. In Dade County alone, nearly one-fifth of its population under the age of 18 is foreign born. Additional students require more teachers, computers and desks, not to

Figure 0-1

Foreign-Born Population Increase in Florida by Continent of Origin



Source: U.S. Department of Commerce, Bureau of the Census, 1992 U.S. Statistical Abstract.

Table 0-2
Fiscal Year 1993 Estimated Fiscal Impact of Immigration
FLORIDA - STATE & LOCAL
(Millions of dollars)

POPULATION *	STATE ONLY	LOCAL **	STATE AND LOCAL
Documented Aliens	\$489.4	\$1,163.4	\$1,652.9
Undocumented Aliens	\$261.8	\$622.2	\$884.0
TOTAL COSTS	\$751.2	\$1,785.7	\$2,536.9

* The total estimated state and local costs were calculated for non-citizens using 1990 census information. The undocumented costs were then calculated using 1992 Immigration and Naturalization Service figures for the number of undocumented aliens in Florida. The documented alien costs are the difference between the total costs figures and undocumented costs.

** The local estimate was calculated by the Florida Advisory Council on Intergovernmental Relations. The total budget of all local governments for fiscal year 1992 was used as a base. The non-citizen percentage was then applied to this total number. The growth in consumer price index for fiscal year 1993 was then applied to the 1992 total to create an estimate for fiscal year 1993.

mention expanded classroom facilities. All of these items, of course, require additional state resources. An examination of the three primary educational assistance programs extended to Limited English Proficient residents, reveals a total documented cost to the state in 1993 alone of more than \$255 million. These unreimbursed costs include expenditures of \$254 million for the English for Speakers of Other Languages (ESOL) program, and \$1.2 million for the School Nutritional Food Program. However, once again, the actual state cost for education is much higher. Utilizing the Florida Education Finance Program (FEFP) as a method of calculation, the true cost of educating non-citizen students was over \$517 million in fiscal year 1993 alone.



Immigration related costs to Florida state government for what normally tends to be "big ticket" items such as Medicaid, Aid to Families with Dependent Children (AFDC),

and Food Stamps, were relatively low. The federal match for these programs is determined by the per capita income of the state's entire population. In Florida, the state provides a 45 percent match, while the federal government assumes 55 percent of the cost. However, much of the state match was offset by State Legalization Impact Assistance Grant (SLIAG) funds. This program was created by Congress in 1986 to provide assistance to states for education and health and human services programs for undocumented immigrants qualifying for amnesty under the Immigration Reform and Control Act of 1986. During the past five years, the SLIAG program reimbursed Florida for over \$120 million in costs. During the next five years, the cost is likely to be much higher, and the entire amount will have to be assumed by the state.

Table 0-3 is designed to illustrate the overall estimated impact of immigration in Florida over a five year period. It should be noted that costs are broken out by relevant subject area.

Table 0-3
Estimated Fiscal Impact of Immigration (State only)

FISCAL YEARS 1989-1993
MILLIONS OF DOLLARS

DEPARTMENT	1989	1990	1991	1992	1993	TOTAL
EDUCATION (State and Local)	\$342,212,300	\$429,362,400	\$430,554,720	\$418,515,240	\$517,630,598	\$2,138,275,258
AGENCY for HEALTH CARE ADMINISTRATION*	\$20,100,000	\$16,900,000	\$11,700,000	\$9,900,000	\$11,700,000	\$70,300,000
HEALTH and REHABILITATIVE SERVICES	\$10,344,889	\$11,215,369	\$15,753,035	\$19,509,993	\$26,681,956	\$83,505,242
CORRECTIONS	\$29,100,000	\$32,700,000	\$38,900,000	\$39,700,000	\$44,000,000	\$184,400,000
JUDICIAL	\$24,320,439	\$26,608,327	\$29,013,200	\$29,264,001	\$28,586,970	\$137,792,939
LAW ENFORCEMENT	\$6,536,322	\$6,439,447	\$7,256,786	\$6,919,742	\$6,680,767	\$33,833,064
PUBLIC INFRASTRUCTURE**	\$117,844,500	\$99,057,600	\$144,201,700	\$129,893,400	\$115,878,600	\$606,875,800
TOTAL	\$550,458,450	\$622,283,143	\$677,379,442	\$653,702,376	\$751,158,891	\$3,254,982,303

* The Medicaid program was administratively housed in the Florida Department of Health and Rehabilitative Services until fiscal year 1994.

** Includes Education, Corrections, and Transportation public infrastructure.

The following tables delineate total immigration costs into two immigration status categories: documented and undocumented.

Table 0-4 indicates estimated undocumented alien costs by category for the last five years. These estimates were produced by multiplying total estimated costs by the percentage of non-citizens who were undocumented aliens. The number of non-citizens residing in Florida was obtained from the 1990 Census. The estimated number of undocu-

mented aliens was provided by the Immigration and Naturalization Service.

The costs of undocumented aliens in fiscal year 1993 was estimated to be \$261.8 million, and the five year total is estimated to be \$1.1 billion.

Table 0-5 contains estimates of documented (legal) alien costs to Florida. These estimates are the residual of the total immigration costs minus the estimated undocumented costs. As with the previous table, actual costs may be higher.

Estimated Fiscal Impact of Undocumented Aliens (State Only)
FISCAL YEARS 1989-1993

DEPARTMENT	1989	1990	1991	1992	1993	TOTAL
Education (State and Local)	\$119,260,987	\$149,632,796	\$150,048,320	\$145,852,561	\$180,394,263	\$745,188,927
Agency for Health Care Admin. *	\$7,004,850	\$5,889,650	\$4,077,450	\$3,450,150	\$4,077,450	\$24,499,550
Health and Rehabilitative Svcs.	\$3,605,194	\$3,908,556	\$5,489,933	\$6,799,233	\$9,298,662	\$29,101,577
Corrections	\$10,141,350	\$11,395,950	\$13,556,650	\$13,835,450	\$15,334,000	\$64,263,400
Judicial	\$8,475,673	\$9,273,002	\$10,111,101	\$10,198,504	\$9,962,559	\$48,020,839
Law Enforcement	\$2,277,908	\$2,244,147	\$2,526,990	\$2,411,530	\$2,328,247	\$11,790,823
Public Infrastructure **	\$41,068,808	\$34,521,574	\$50,254,292	\$45,267,850	\$40,383,692	\$211,496,216
TOTAL	\$191,834,770	\$216,865,675	\$236,066,736	\$227,815,278	\$261,778,874	\$1,134,361,332

* The Medicaid program was administratively housed in the Florida Department of Health and Rehabilitative Services until fiscal year 1994.

** Includes Education, Corrections, and Transportation related public infrastructure expenditures

Estimated Fiscal Impact of Documented Aliens (State Only)
FISCAL YEARS 1989-1993

DEPARTMENT	1989	1990	1991	1992	1993	TOTAL
Education (State and Local)	\$222,951,313	\$279,729,604	\$280,506,400	\$272,662,679	\$337,236,335	\$1,393,086,331
Agency for Health Care Admin. *	\$13,095,150	\$11,010,350	\$7,622,550	\$6,449,850	\$7,622,550	\$45,800,450
Health and Rehabilitative Svcs.	\$6,739,695	\$7,306,813	\$10,263,102	\$12,710,760	\$17,383,295	\$54,403,665
Corrections	\$18,958,650	\$21,304,050	\$25,343,350	\$25,864,550	\$28,666,000	\$120,136,600
Judicial	\$15,844,766	\$17,335,325	\$18,902,101	\$19,065,497	\$18,624,411	\$89,772,100
Law Enforcement	\$4,258,414	\$4,195,300	\$4,727,796	\$4,508,212	\$4,352,520	\$22,042,241
Public Infrastructure **	\$76,775,692	\$64,536,026	\$93,947,408	\$84,625,550	\$75,494,908	\$395,379,584
TOTAL	\$358,623,680	\$405,417,468	\$441,312,707	\$425,887,098	\$489,380,018	\$2,120,620,970

* The Medicaid program was administratively housed in the Florida Department of Health and Rehabilitative Services until fiscal year 1994.

** Includes Education, Corrections, and Transportation related public infrastructure expenditures

RECOMMENDATIONS

FEDERAL ACTION REQUIRED

1 RECOMMENDATION: *Seek passage of legislation at the federal level to reimburse the states for immigration related expenditures.*

ACTION REQUIRED OF: *Florida Congressional Delegation.*

The formation and enforcement of U.S. immigration and foreign policy is a constitutional charter of the federal government. The failure of such federal policy to control the borders of the United States has resulted in the concentration of alien populations of both legal and illegal status in small number of states. It is recommended that Florida officials work with the Administration and Congress including the Florida Congressional Delegation, to develop a mechanism for the federal government to pay the full costs of health and social services, education, and criminal justice which are imposed on the state and local governments by immigration.

2 RECOMMENDATION: *Work with Administration officials to ensure that Florida's immigration related interests are reflected in federal policy.*

ACTION REQUIRED OF: *Combined action of state executive and legislative leadership and the Florida Congressional Delegation.*

U.S. immigration and refugee laws are reauthorized periodically by Congress and should continually be reviewed and updated to include policy and allocation formula factors which are consistent with the overall world situation and immigration flow into the United States. This process should insure that as the U.S. government determines immigration and refugee entrant numbers on a yearly basis, it should also support budget recommendations that provide for adequate funding for refugee and immigrant programs that coincide with the overall U.S. policy. The State of Florida should continually work with its Congressional Delegation to insure that the immigration needs of Florida are included in the individual programs and budget numbers which embrace U.S. immigration policy.

3 RECOMMENDATION: *Require more accurate recordkeeping on the illegal immigrant population.*

ACTION REQUIRED OF: *Immigration and Naturalization Service and the U.S. Department of Health and Human Services.*

The Florida Congressional delegation should press appropriate federal agencies, including the Immigration and Naturalization Service (INS) and the U.S. Department of Health and Human Services (HHS) to assess the feasibility of conducting research

on the birth and death rates that apply to the foreign born population through sample surveys of both the vital events themselves and the population bases. These data, if collected by age group, could be combined with the estimates of the counted undocumented alien population, and, by implication, help measure more precisely the uncounted undocumented alien population.

4 RECOMMENDATION: *Improve federal data collection and analysis on the non-citizen population in the United States.*

ACTION REQUIRED OF: *U.S. Census Bureau and the U.S. Department of Commerce.*

Initiatives at the federal level should be taken to ensure considerable improvement in information on the non-citizen population. These data should include both documented and undocumented aliens and special agricultural workers (SAWs) with as much geographic detail as possible. A detailed analysis by age, country of birth, and period of entry would be needed to produce such estimates. This information would be invaluable in significantly improving national population estimates as well as providing a more current basis for estimating the total foreign born population. During the last decennial census, the federal government acknowledged that a significant number of the foreign born population was not counted, many of whom reside in Florida. Since population is often a major determinant when federal assistance is acted upon by the Congress, Florida has received less than an equitable share of revenue as a result.

STATE ACTION REQUIRED

1 RECOMMENDATION: *Initiate legal action against the federal government to recover immigration related costs and to set a precedent for the recovery of future expenditures.*

ACTION REQUIRED OF: *Governor and Florida Attorney General.*

Over a period of several decades, Florida has assumed significant fiscal responsibility for federal policy decisions on immigration. The impact has been greatest in the areas of education, health and human services, corrections and infrastructure related expenditures. It is recommended that the State of Florida initiate civil litigation against the federal government for the express purpose of recouping the costs associated with the immigrant population, and to set a legal precedent for requiring reimbursement to the state for future expenditures.

2 RECOMMENDATION: *Make application to secure monies from the federal Immigration Emergency Fund.*
ACTION REQUIRED OF: *Florida Department of Health and Rehabilitative Services (HRS).*

In 1986, Congress authorized the Immigration Emergency Fund for the purpose of providing a funding source for a mass immigration emergency as declared by the President of the United States. Recognizing that the \$35 million was associated with a presidential declaration, the fund was amended in 1990 to allow for the U.S. Attorney General to access \$20 million of the total for the purpose of reimbursing state and local governments who experience a measured immigration influx that meets certain criteria. However, regulations to implement this fund have yet to be finalized 4 years after passage of the legislation which allows for accessibility to such a resource. The State of Florida should strongly encourage the U.S. Department of Justice to promulgate the final regulations and then vigorously pursue funding reimbursement for costs associated with immigration into Florida.

3 RECOMMENDATION: *Develop a comprehensive strategy on seeking immigration monies from Washington, which includes analysis of federal formulas.*

ACTION REQUIRED OF: *State Executive and Legislative Leadership.*

Although individual or "project" grants are often available to the state through various agencies of the federal government, the most significant amount of aid for immigration related costs are determined on the basis of legislative formulas set by Congress. It is essential that Florida's elected leadership, including its Congressional delegation, work to devise and implement strategies to successfully maximize the level of federal assistance for immigration programs. It is recommended that this objective be achieved as part of the Governor's "Roundtable" series of discussions with legislative and Cabinet officials, as well as the state's Congressional representatives.

4 RECOMMENDATION: *Enact legislation which would require more precise agency documentation of state immigration related costs.*

ACTION REQUIRED OF: *Florida State Legislature.*

Florida currently expends considerable resources as a direct result of immigration into the state. Although these costs should be borne by the federal government, the state must make substantive progress in documenting expenditures. It is recommended that legislation be enacted which would set forth specific reporting guidelines including determining immigration status, and require compliance by agencies of state governments.

Florida Advisory Council on Intergovernmental Relations (ACIR)

Major Observations

- 1) Local governments do not document U.S. residency status of local service consumers, in part, because while local residency is a requirement for service eligibility, U.S. residency status is not a program eligibility requirement.
- 2) In the area of public health, public health and safety concerns supersede the need to accurately identify residency status of clients.
- 3) Local governments are denied access to the federal government immigrant directories for the purpose of residency status verification.
- 4) Statutory and other data collection requirements on immigrants by state and local entities are incomplete, unverified, sometimes nonmandatory, of relatively low priority, include no provisions for centralized reporting, and as a result, under utilized.
- 5) The exact number of immigrant students attending Florida public schools is unknown. The number of immigrant students enrolled in special or gifted student programs is unknown. The difficulty in identifying the number of immigrant students that attend Florida schools is due in part to the August, 1990 consent decree signed by the Florida Commissioner of Education, Department of Education and the State Board of Education with the Multicultural Education Training Advocacy, Inc., that prohibits education officials from requesting certain information on the residency status of the students' family. Another difficulty in identifying immigrant student costs is the method utilized by the Florida Department of Education in the calculation of student enrollments, FTE funding, and special program funding allocated to local school districts.
- 6) The State of Florida has no written agreement with the U.S. Justice Department and Immigration Naturalization Services regarding the notification of incarceration of aliens and for the use of state correctional facilities for holding deportation hearings of criminal aliens.
- 7) The Florida Department of Corrections is not specifically authorized to release custody of criminal aliens who are incarcerated in Florida correctional facilities prior to the completion of their sentence to the U.S. Justice Department for the purpose of deportation.

ACIR RECOMMENDATIONS

DATE APPROVED: November 29, 1993

1 RECOMMENDATION: In order to address the tasks identified in the following list, the Florida Legislature should designate an entity as the state clearinghouse on all immigration issues. This entity should exist as a Joint Commission or Commission with members appointed by the Leadership of the Legislature and by the Governor or this could be done as part of the existing Florida Estimating Consensus Conferences or a new conference assigned responsibilities pursuant to s. 216.136, F.S. If a Commission or a Joint Commission is established, the Governor's appointments must include local elected officials from municipal and county governments from a list of nominees provided by the Florida Association of Counties and the Florida League of Cities. Consistent with responsibilities assigned in s. 14.23, F.S., the Florida State-Federal Relations Office, within the Executive Office of the Governor, shall coordinate activities with the designated entity including the collection and dissemination of relevant information and assist in monitoring of proposed federal legislation that would impact funding levels of current immigrant programs. If a single entity is so created, it should report to the Florida Legislature, Governor, and Cabinet. Responsibilities of this entity should include the following seven duties. Those responsibilities appropriate for consensus estimating conferences include numbers 2, 3, 5, and 6.

- 1) identify and maintain population figures for Florida immigrants as provided by INS records and publications and from any other identified sources;
- 2) develop and maintain an inventory of all federal programs available to immigrants, grant amounts for those programs, any state and local match requirements, the amount of state and local discretion afforded by each program, and the amount of program funding provided to governmental and nongovernmental entities;
- 3) develop and maintain an inventory of all governmental services accessed by immigrants that are reported to state agencies. (At a minimum, information shall be collected from the Florida Departments of Corrections, Education, Health and Rehabilitative Services, Highway Safety and Motor Vehicles, and Law Enforcement);
- 4) monitor proposed federal legislation that would impact funding levels of current immigrant programs and advise the Leadership in the House and Senate, the Governor, and Cabinet of proposed recommendations;

5) identify federal data banks on immigrants and propose methods for accessing that information in order to verify immigration status of individuals who utilize state and local services and programs, and

6) evaluate the impact of undocumented immigrants on Florida's health care system with attention to this population's inclusion and exclusion from the proposed federal government's health care policy and the health care program coverage that is extended by the State of Florida.

7) serve as the State of Florida's liaison in immigration issues to all federal agencies and to Florida's Washington delegation.

RATIONALE: Currently, the Office of Refugee Program Administration within the Department of Health and Rehabilitative Service collects information on refugee programs that are administered by the Department. Information on programs serving other types of immigrants, or that are administered by other agencies are not necessarily forwarded to the Refugee Administration Office. Information regarding immigrants that is collected by other state agencies is not reported to any single entity. In addition, with the exception of federally funded or partially funded programs, Florida does not verify the immigration status of individuals who access state and local services. Although the federal government maintains an extensive list of immigrants by name and identification number, it is unknown whether, and the extent to which, states may access that information to verify immigration status of state and local service consumers. Such information would assist in the calculation of the costs incurred by state and local agencies from services accessed by immigrants and in assessing the contributions of immigrants to the state government and local communities. The creation of a Commission with authority to employ fulltime staff emphasizes the Council's belief that: 1) the functions performed by the designated entity is a priority to the State of Florida, and 2) that a concerted effort by trained staff is required to adequately address the assigned duties. The functions currently performed by the Florida Consensus Estimating Conferences are consistent with the need to calculate similar estimates for costs incurred by immigrant populations by state and local entities and the estimate of contributions by immigrants to the state and to local communities where immigrants reside. It is anticipated that additional resources must be available in order for these new responsibilities to be adequately addressed. The anticipated role performed by the Florida State-Federal Relations Office represents a continuation of their existing responsibilities and acknowledges the advantage of utilizing a single established office to gather and disseminate information between the federal government and the designated entity.

2 RECOMMENDATION: The Florida Departments of Law Enforcement and Corrections shall submit monthly reports regarding the arrest, local detention, or state incarceration of immigrants to the designated entity.

RATIONALE: Although this information is routinely collected by these state agencies, it is not always readily accessible. The development and forwarding of such monthly reports would necessitate better record management on the part of the Departments, reinforce the importance of maintaining accurate records, and provide current information on the impact of immigrants to law enforcement and detention facilities.

3 RECOMMENDATION: The Department of Education shall maintain records on the amount of federal funding it receives for immigrant programs, the distribution of funds among eligible school districts, and the amount of state general revenue and that is distributed to each school district as a result of immigrant student FTE for basic education and for all other special education programs. The Department shall identify any additional funding and sources of funding special education programs in which immigrant students are enrolled. The Department shall provide the designated entity with a report on these expenditures on a routine basis.

RATIONALE: Current Department recordkeeping procedures do not allow for identification of student enrollment in specialized educational programs. In addition, the mix of federal state and local funding for basic and special educational programs in which immigrant students are enrolled is unclear.

4 RECOMMENDATION: The Florida Department of Corrections, in conjunction with the Department of Law Enforcement, shall develop written plans for the coordination with the U.S. Justice Department and Immigration Naturalization Services in regards to notification of incarceration of aliens and for the use of state correctional facilities for holding deportation hearings of criminal aliens.

RATIONALE: Currently, the Florida Department of Corrections notifies INS whenever an individual is sentenced to a state correctional facility who is identified or suspected of being an alien. This process has evolved into an informal arrangement between Department staff and the INS. In addition, the U.S. Department of Justice conducts deportation hearings in seven of Florida's correctional facilities without benefit of any written agreement, based on information provided by the Office of the Secretary of the Department of Corrections. Any agreed upon relationship between state agencies and the U.S. Justice Department that entails the interviewing and possible deportation of aliens should be documented and approved in written form. Currently,

the Florida Department of Law Enforcement is responsible for maintaining the Florida Criminal Justice Information System. The Department of Law Enforcement should ensure that the system contains all appropriate information to assist in the early identification of criminal aliens and to record findings and final disposition subsequent to the deportation hearing for each criminal alien.

5 RECOMMENDATION: The legislature should authorize the Department of Corrections to release custody of criminal aliens who are incarcerated in Florida Correctional Facilities to the U.S. Justice Department for the purpose of deportation of the criminal alien.

RATIONALE: Currently, Florida Statutes do not permit the Department of Corrections to release criminal aliens incarcerated in Florida prisons to the U.S. Justice Department for the purposes of deportation any earlier than they would ordinarily be released. Such early releases would save the state the costs of incarceration of these individuals and provide space for additional offenders.

6 RECOMMENDATION: The Florida Department of Law Enforcement should identify the information on the citizenship status as a mandatory element of the Offender Based Transaction System (OBTS).

RATIONALE: Currently, the data element in the OBTS that identifies the citizenship status of individuals is identified as a voluntary data field. Listing the citizenship status of the individual in the OBTS is left up to the discretion of individual local agencies. Requiring that this information be provided for each individual included in the OBTS will assist in the development of an impact assessment from immigrants on state and local criminal justice systems.

7 RECOMMENDATION: The legislature should require, with adequate funding for both capital outlay and operations, that all appropriate state and local agencies participate in the OBTS and maintain accuracy of information contained in the system on a timely basis. The Department of Law Enforcement shall provide an annual report that includes the names of local agencies that are not complying with the requirements of the OBTS and other information as required to the entity designated in recommendation 1.

RATIONALE: Based on information provided by the Department of Law Enforcement, only 60 of 67 counties currently participate in some aspect of OBTS. Requiring that each local agency participate in the OBTS will assist in the development of an impact assessment on state and local criminal justice systems from immigrants.

Recommendations Affecting State-Federal Relations

8 RECOMMENDATION: The Legislature should request that agreements between Florida and the federal government, including INS, be established to provide states with information on size and other requested demographic characteristics of immigrant populations on an ongoing basis.

9 RECOMMENDATION: The Legislature should request that INS tapes on immigrant populations be available to states at no charge.

10 RECOMMENDATION: The Legislature should request funding to conduct targeted population surveys of immigrants to identify estimates of immigrants and undocumented aliens. Surveys should be limited to areas assumed to have heaviest concentration of immigrants within the state.

11 RECOMMENDATION: The Legislature should request that the federal government establish a policy where states could legitimately estimate costs and receive reimbursements for services provided to immigrants, including undocumented aliens.

RATIONALE for recommendations 8 - 11: The federal government is responsible for the creation of immigration policy, immigrant program policy, securing the borders of the country, and for collecting and maintaining records and other census information on immigrants. State and local governments are responsible for providing services and programs for residents within their respective political jurisdictions. State and local governments require information and resources for the planning and implementation of programs that serve state and local residents. State and local governments require the cooperation and coordination with federal agencies, including INS, in order to provide adequate services to immigrants without jeopardizing the quality and continuity of existing services afforded to residence at the state and local levels.

12 RECOMMENDATION: The Chairman of the Florida Advisory Council on Intergovernmental Relations shall communicate recommendations from the Council's Immigration Study to the Florida Washington Delegation and express the importance of recommendations 10 - 13 and the necessary action required by Congress for the implementation of these highlighted recommendations.

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CHAPTER ONE
INTRODUCTION



Highlights of United States Immigration Policy

"Give me your tired, your poor, your huddled masses yearning to breathe free. The wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door."

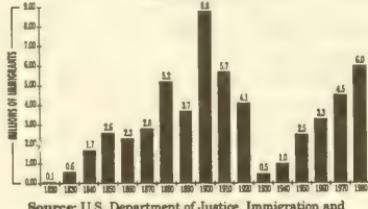
This highly recognizable phrase from an Emma Lazarus poem is etched forever into the base of the Statue of Liberty. The Statue of Liberty has been an international beacon for refugees and immigrants since the United States first received it as a gift from the French government in 1886. Ellis Island, located in New York harbor one half mile from the Statue of Liberty, became an official immigration port of entry in 1892, and had processed over 12 million immigrants before it was closed in 1954.

Over the last 100 years there have been three major waves of immigration to the United States (see Figure 1-1). The first two waves consisted mostly of Europeans and peaked respectively in 1880 and 1907. Their motivation ranged from the potato famine in Ireland, which caused near starvation and economic hardship, to the industrial revolution which created massive economic changes throughout Europe.

Most of these immigrants sailed from various ports on the European continent, and arrived at Ellis Island with only their most precious possessions. Communities in cities such as Boston, Philadelphia and Baltimore became home to thousands of new arrivals who settled throughout the northeast section of the nation. The end of the second wave can primarily be attributed to restrictive immigration quotas in the mid 1920s, and the Great Depression.

Figure 1-1 **Legal Immigration to the U.S.**

1820s - 1980s



Source: U.S. Department of Justice, Immigration and Naturalization Service, Division of Statistics

¹ U.S. Department of the Interior, National Park Service, Ellis Island, September 1993.

The third large wave of immigration to the United States began in the 1960s. While most of these immigrants share the same goals and aspirations for a better life, many who arrive from Latin America, the Caribbean, and Asia are also motivated by political turmoil in their home countries. Whether they reach the United States by jumbo jet or a simple raft, a record number of immigrants continue to seek freedom and opportunity (see Figure 1-2).

Figure 1-2
Foreign Born Population Increase
in the U.S.
BY AREA OF ORIGIN (1980-1990)



Source: U.S. Department of Commerce, Bureau of Census, 1980 and 1990 Census.

Illegal Immigration

The U.S. Border Patrol was created by Congress in 1924 in response to the growing problem of illegal immigration. As immigration laws in the United States became more restrictive, with specific limitations on who, and how many individuals would be allowed to immigrate, illegal immigration became a bigger problem. During the 1980s, over one million undocumented aliens were apprehended along the Mexican border each year, with a peak of almost 1.8 million apprehended in 1986 alone. Florida is unique from other "border" states because of its geographic location. Because its long peninsula juts out into the Atlantic Ocean and the Gulf of Mexico, it is not as easily reached by those seeking to illegally immigrate from their native country over land borders. The U.S. Coast Guard patrols Florida's 1,350 miles of coastline and often plays a role similar to Immigration and Naturalization Border Patrol officers stationed along the Mexican and Canadian borders.

² Approximately 2.2 million of the total 3.1 million Central American immigrants are from Mexico.

The Immigration and Naturalization Service (INS) has completed the following estimates of the undocumented population in the United States by area of origin (see Figure 1-3). The INS has estimated a total of 3.2 million undocumented aliens in the United States in 1992.³

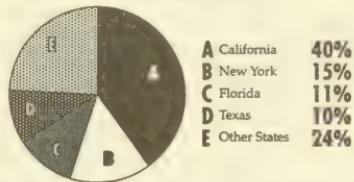
Figure 1-3
U.S. Undocumented Aliens by Area of Origin
OCTOBER, 1992



Source: Materials provided by the Immigration and Naturalization Service, Office of Strategic Planning, Statistics Division, August, 1993.

In addition, the INS, as part of a 1992 survey, has published the following estimates of the undocumented alien population by state (see Figure 1-4).

Figure 1-4
Estimated Percentage of Total U.S. Undocumented Alien Population
OCTOBER, 1992



Source: Materials provided by the Immigration and Naturalization Service, Office of Strategic Planning, Statistics Division, August, 1993.

³ Other estimates of the undocumented population have been made by the Urban Institute in Washington, D.C. They recently estimated the undocumented alien population in the United States within the range of 2.5 and 4 million. The Government Accounting Office (GAO Report on Illegal Aliens, August 1993), estimates a maximum of 3.4 million undocumented aliens in the United States.

Key Federal Immigration Policy Changes and Court Decisions

Federal immigration policy changes and legal decisions issued by the courts, have had a significant impact on state and local finances, specifically in the area of services provided to new arrivals, including undocumented aliens. Each new shift in policy, including changes in the number of people allowed to immigrate or acceptable criteria which must be adhered to, typically results in sizeable adjustments for states such as Florida. Although a cohesive federal strategy on immigration is clearly lacking, the following information highlights several key decisions which represent the underpinnings of present immigration laws and policies in the United States.

Federal Immigration Policy Changes: Limitations & Restrictions

Immigration law and policy has changed substantially during the 1900s. Historically, immigration policy in the United States has been based solely on a per-country quota system. *The Immigration Act of 1924* provided for numerical limitations and a per-country quota based on the 1910 Census. The first true codification of immigration law resulted from the passage of *The Immigration and Nationality Act of 1952*. This was the first attempt to give priority to those immigrants with highly valued skills.

Another major change to immigration policy occurred with the enactment of *The Immigration Act of 1965*. Family reunification became a priority with the passage of this Act. *The Cuban Adjustment Act of 1966* included provisions which permitted Cubans to apply for permanent residency status after one year from date of entry as opposed to five years for other immigrants.

The 1986 IRCA provided for employer sanctions against businesses that employed undocumented aliens and legalization for qualified undocumented aliens. Because of this, it was more difficult for undocumented aliens to find work in the United States. This ultimately led to a reduction in the flow of undocumented aliens into the United States.

Current immigration policy is based on *The Immigration and Nationality Act* which still prioritizes eligibility on the basis of family reunification along with the need for specific skills.

Changes in Immigration Funding

The availability of federal funds to cushion the impact of immigration has experienced many substantive changes over the years. The first authorized federal assistance for refugee resettlement was contained in *The Migration and Refugee Assistance Act of 1962* which provided health, welfare, and social services funding to refugees. This legislation was passed in response to the influx of Cuban refugees following Fidel Castro's rise to power in 1959.

Refugee funding was governed by this legislation until the passage of *The Refugee Act of 1980*. The 1980 Act provided funding for all areas of refugee resettlement, and allowed access to such programs as Aid to Families with Dependent Children (AFDC), Medicaid, Food Stamps, English for Speakers of Other Languages (ESOL), and vocational and employment related training. It also provided for payment to voluntary agencies that provide resettlement assistance to refugees.

The Fascell/Stone Amendment to *The Refugee Education Assistance Act of 1980 (REAA)*, provided that eligibility for refugee resettlement programs previously authorized by the 1980 Refugee Act for refugees would also cover the newly defined Cuban/Haitian entrant population. This was especially important to Florida because it opened up resettlement programs to Cuban/Haitian entrants who have primarily settled in Florida.

Targeted Assistance is an outgrowth of the 1981 Impact Aid program, which provided financial assistance to south Florida in response to the Mariel Boatlift. The Refugee Extension Act of 1986 was the first official authorization for Targeted Assistance, although it annually received appropriations funding beginning in 1982. Targeted Assistance are funds provided to communities for reimbursements for costs associated with refugees/entrants due to their high concentration in that county.

The Emergency Immigrant Education Act (EIEA) of 1984 was passed in order to assist school districts throughout the United States that have a disproportionate number of immigrant students. Funds are targeted to school districts with at least 500 immigrant students, or instances where 3% or more of the total school enrollment are immigrant children. EIEA funds provide supplemental education assistance for immigrant students, and for the training of teachers responsible for instructing these students in both public and non-public elementary and secondary schools.

The Immigration Reform and Control Act of 1986 (IRCA) provided that any undocumented alien who had been living in the United States prior to January 1, 1982 could gain legal immigration status. IRCA also provided that these same amnestied aliens would not be eligible for most federal funding programs for a period of five years. In response to the added fiscal responsibility to state and local governments for these newly legalized residents, the State Legalization Impact Assistance Grants (SLIAG) program was adopted by Congress. SLIAG is a federal reimbursement program to state and local governments, school districts, and private non-profit entities that provide services to amnestied aliens. Reimbursements to states for costs related to the incarceration of Mariel felons was also initiated at this time.

Table 1-1 summarizes major immigrant funding legislation and associated programs.

Table 1-1
Federal Legislation Responsible for Major Immigration Funding Programs

MIGRATION AND REFUGEE ASSISTANCE ACT OF 1962

- Cuban Refugee Assistance Program

REFUGEE ACT OF 1980

- Refugee Cash and Medical Assistance
- Social Services Program

EMERGENCY IMMIGRANT EDUCATION ACT OF 1984

- Emergency Immigrant Education Program

IMMIGRATION REFORM AND CONTROL ACT OF 1986

- State Legislation Impact Assistance Grants
- Immigration Emergency Fund

Key Court Decisions Affecting Immigration

It is often taken for granted that the federal government has the sole authority over immigration policy, but this has not always been the case. As late as 1870, several cities and states including Massachusetts, California, and New York City were levying a head tax or a surcharge on immigrants as a means of regulating the influx of new arrivals. It was not until the 1875 U.S. Supreme Court decision *Henderson v. City of New York*, that state immigration laws were ruled an unconstitutional violation of federal power to regulate foreign commerce. With this important decision, the federal government began to consolidate its authority over immigration to the exclusion of state and local governments.

With this authority, comes the fiscal responsibility for providing essential services. More than one hundred years after the Henderson case the U.S. court system still grapples with issues related to the state and local role in the immigration process. In an important 1982 decision, the Supreme Court ruled in the case of *Plyler v. Doe* that undocumented alien children cannot be denied a free public education since such a denial would violate their constitutional right to equal protection. In what can be viewed as an expansion of the *Plyler v. Doe* case, the Florida Department of Education signed what is now referred to as the META Consent Decree in 1990. This consent agreement had two primary objectives: 1) identify students with a need for special language assistance, and 2) provide them with necessary training and skills. However, the agreement also prevented the state from determining the specific immigration status of these students. This agreement is explained more fully in chapter three.

A series of legal challenges to United States interdiction policy of Haitians culminated in the 1980 case of *Haitian Refugee Center v. Civiletti*. The federal judge hearing the case ruled in July, 1980 that INS practices had violated Haitian asylum seekers' rights and that government authorities had deported Haitians despite their potentially valid claims to asylum.

A more recent court case involving Haitians was the 1992 *Haitian Centers Council v. McNary*. All Haitians housed at Guantanamo Bay are automatically given health screenings. Under current law, those who are found to be HIV positive are deemed 'excludable' and are not allowed into the

United States. In the case of *Haitian Centers Council v. McNary*, the judge ruled that this specific group of HIV positive Haitians should be allowed into the country and their excludable status was waived.

Also in 1992, a U.S. District Court in New York determined that pregnant women must be provided prenatal and delivery care regardless of immigration status. This case, known as *Lewis v. Grinker*, reaffirmed Congressional language contained in the *Omnibus Budget Reconciliation Act of 1986*. However, the application of this decision does not currently extend beyond New York state. In Florida, only emergency care is provided to undocumented aliens residing in the state.

Immigration Status: A GLOSSARY OF TERMS

Immigration status is important for many reasons. For example, the numerical limit on the number of refugees allowed in the United States each year differs from the limit on the number of immigrants. Also, eligibility for different federal and state assistance programs often depends upon immigration status.

Current immigration categories are identified and described below. Following the immigration classifications list is a table that identifies which federal programs are available to immigrants based on their residency status. Immigrant eligibility for major federal programs is summarized in Table 1-2.

CLASSIFICATIONS⁴

Lawful Permanent Resident (LPR). A person who is in the United States permanently and qualifies as a refugee, asylee, or immigrant, or who has been granted amnesty other than suspension or deportation. LPRs have permission to live and work permanently in the United States. They can travel outside the United States and return, as long as they do not abandon their United States residence. An LPR can apply for naturalization to become a United States citizen after living in the United States for five years, or three years if married to a United States citizen. LPRs are eligible for almost all of the public benefits available to United States citizens.

Refugee/Asylee/Parolee. The United States permits some aliens to enter the country. Refugees are aliens who fear persecution and apply for entry into the United States while outside the United States boundaries. Asylees are aliens who fear persecution and apply for asylum or withholding of deportation subsequent to arriving in the United States. A third category, "parolee" applies to aliens who have been given permission to enter the United States under emergency conditions, or when the alien's entry is considered to be in the public interest.

Cuban/Haitian Entrant - An entrant also falls under the umbrella of the broader category of *refugee*. Entrants must meet one of the following criteria: 1) Cubans who entered the United States illegally between April 15, 1980 and October 10, 1980 (Mariel Boatlift), 2) Haitians who entered the United States illegally before January 1, 1981, or 3) Specific groups of Cubans and Haitians who arrived after October 10, 1980 as defined by the Fascell/Stone amendment.

PRUCOL. PRUCOL is not defined in immigration law and is not a separate immigration status such as "refugee" or "immigrant". PRUCOL stands for "permanently residing in the United States under color of law" and refers to aliens who reside in the United States without permanent resident status and whose presence is known and tolerated by United States authorities. As noted before, the PRUCOL designation is not an immigration status, but it is a category used to determine eligibility for certain federal program benefits.

Amnestied Aliens (Pre-82s). Undocumented aliens residing in the United States prior to 1982 were granted amnesty under Section 245A of *The Immigration Reform and Control Act of 1986 (IRCA)*. Amnestied aliens could become legalized residents if they met certain criteria.

SAWs. Undocumented aliens employed as "special agricultural workers" at least 90 days prior to May, 1986 were granted amnesty (Section 210 of IRCA) to become legalized residents if they met certain criteria.

Family Unity. Replaced an earlier program known as Family Fairness. Provides protection from deportation, and authorizes eligibility for employment for spouses and children of aliens who are legalized under IRCA.

Temporary Protected Status (TPS). Created under Section 302 of *The Immigration Act of 1990*, *The Immigration Nationality Act of 1952* was amended by adding Section 244A. This new Section authorizes the U.S. Attorney General to grant Temporary Protected Status (TPS) to nationals of countries with protected status designation. The U.S. Attorney General may provide this designation to any country which is experiencing: a) ongoing armed conflict, b) natural disaster, or c) other extraordinary temporary circumstances that make an alien's return to his country unsafe.

Undocumented Alien. A foreign national who either (a) entered the United States without inspection; (b) entered with fraudulent documentation; or (c) who after entering legally with a temporary visa, remained in the United States after the visa expired. Undocumented or illegal aliens are not eligible for citizenship or most federal assistance. However, they are permitted to enroll their children in both primary and secondary schools. They are also eligible to receive emergency care.

⁴Definitions and program eligibility are taken from *Glossary of Refugee and Immigration Issue Related Terms and Documents*, Office of Refugee Administration, Florida Department of Health and Rehabilitative Services and from the *Guide to Alien Eligibility for Federal Programs*, National Immigration Law Center, 1992.

Table 1-2
**Overview of Alien Eligibility
for Federal Programs**

PROGRAM	Alien Program Eligibility Authorization	ALIEN'S STATUS							
		LPR (1)	Refugee Asylee	Cuban/Haitian Entrant	PRUCOL (2)	AMNESTY Section 245A PRE-82 (3)	Section 210 SAW (4)	FAMILY UNITY	TPS (5)
CASH									
AFDC	42 U.S.C. 602(a)(33)	Yes	Yes	Yes	Yes (narrowly defined)	Not for 5 years, unless GS or over 65 or disabled	Same as amnesty alien (or until LPR)	No	No
SSI	42 U.S.C. 1382c(a)(1)(b)	Yes	Yes	Yes	Yes (broadly defined)	Yes	Yes	Yes	No
Unemployment Insurance	26 U.S.C. 3304	Yes	Yes	Yes	Yes (broadly defined)	Yes	Yes	Yes	No
MEDICAL CARE									
Medicaid	42 U.S.C. 1396 b(v)	Yes	Yes	Yes	Yes (broadly defined)	Full services for 65 & over, disabled, and others invited to emergency & pregnancy services for 5 years.	Same as amnesty alien (or until LPR)	Emergency services	Emergency services
FOOD									
Food Stamps	7 U.S.C. 2015(l) 7 C.F.R. 273.4	Yes	Yes	Yes	No	Not for 5 years, unless GS or over 65 or disabled	Same as amnesty alien (or until LPR)	No	No
WIC	see below (7)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
School Lunch & Breakfast	see below (8)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
EDUCATION									
Headstart, K-12	see below (9)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Title IV Federal Loans	see below (10)	Yes	Yes	Yes	Maybe	Yes	Yes	Maybe	No
JTPA	see below (11)	Yes	Yes	Yes	Yes (if work-authorized)	Yes	Yes	Yes (if work-authorized)	No
HOUSING & OTHER SERVICES									
Federal Housing	see below (12)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Social Services Block Grant	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Notes:

- (1) LPR = lawful permanent residents
- (2) PRUCOL=permanently residing in the U.S. under color of law.
- (3) PRE-82=legalized aliens
- (4) SAW=seasonal agricultural workers
- (5) TPS=temporary protected status
- (6) UNDOC=undocumented aliens
- (7) WIC: All aliens eligible regardless of immigration status.
- (8) School Lunch & Breakfast: All aliens eligible regardless of immigration status.
- (9) Headstart, K-12: All aliens eligible for elementary and secondary education, regardless of immigration status.

Sources: Jonathan C. Dunlap, "Appendix: Overview of Alien Eligibility for Federal Programs"; *America's Newcomers: A State & Local Policymaker's Guide to Immigration and Immigrant Policy* (Denver, CO: NCSL, 1993) p.22; and National Immigration Law Center, "Guide to Alien Eligibility for Federal Programs" (Los Angeles, CA: 1992).

(10) Title IV Federal Loans:

- a) Lawful Permanent Residents: including amnesty LPRs and persons granted suspension of deportation;
- b) Lawful Temporary Residents under the amnesty programs;
- c) Persons fleeing persecution: refugees, aliens granted asylum, aliens granted withholding of deportation, parolees, Cuban/Haitian Entrants, and conditional entrants.

(11) JTPA: Lawful Permanent Residents, Lawful Temporary Residents under the amnesty programs. All other aliens with INS work authorization.

(12) Federal Housing: Noncitizens are eligible for HUD housing programs regardless of status with the exception of nonimmigrant students and their dependents who are ineligible.

CHAPTER TWO

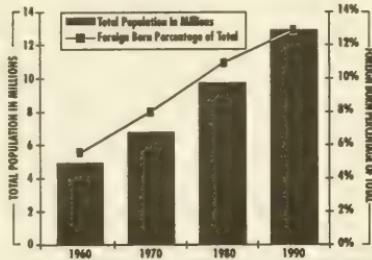
IMMIGRATION TO FLORIDA



Highlights of Immigration to Florida

Florida's total population growth in many ways has mirrored the growth in the foreign-born population. In 1960, Florida was the 10th largest state in total population and had the 11th largest number of foreign-born population. By 1990, Florida had become the fourth largest state in total population and had the third largest number of foreign-born population, behind only California and New York⁵. Figure 2-1 shows major growth in both total population and the foreign-born population starting in the 1960s.

Figure 2-1
Florida Total and Foreign-Born Population Growth



Source: U.S. Department of Commerce, Bureau of the Census, 1965 and 1992 U.S. Statistical Abstracts.

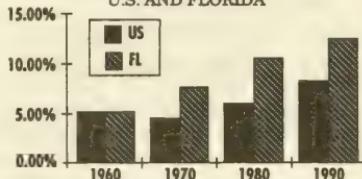
Until the 1960s, Florida received a relatively proportionate share of immigrants compared to other states. Figure 2-2 indicates that since 1960, the foreign-born percentage growth in Florida has greatly surpassed the foreign born population growth in the United States. Currently, more than a third of all legal immigrants to Florida cite Cuba, Haiti, or Jamaica as their country of origin⁶. While this eclectic mix of backgrounds has enriched Florida culturally, it has also necessitated that resources be allocated to accommodate the special needs of these groups.

On January 1, 1959 Fidel Castro overthrew President Fulgencio Batista. This event led to one of the largest migrations to the United States. For the

⁵ U.S. Department of Commerce, Bureau of the Census, 1990 Census.

⁶ Immigration and Naturalization Service.

Figure 2-2
Foreign-Born Percentage of Total Population U.S. AND FLORIDA



Source: U.S. Department of Commerce, Bureau of the Census, 1992 U.S. Statistical Abstract.

first time, visa waivers were implemented and the United States became a country of first asylum. By October, 1962, 14,048 children aged 6-16 were brought into the United States in the 'Pedro Pan' operation. Between 1959-1961, approximately 50,000 more Cubans arrived under the aegis of the newly created Cuban Refugee Plan.

During the ensuing years, several more waves of Cubans fled to the United States. Between 1962-1979, boat-lifts and freedom flights resulted in 690,000 Cubans being paroled in the United States by the U.S. Attorney General.

From April to September of 1980, approximately 125,000 Cubans departed from the Port of Mariel, and arrived in south Florida in what is now referred to as the Mariel Boatlift. In May, 1980 alone, over 85,000 Cubans arrived on Florida's shores. This, along with approximately 25,000 Haitian refugees, overwhelmed all local, state, and federal programs in place at that time in south Florida.

The sheer magnitude of the number of immigrants arriving in south Florida forced President Carter to declare a state of emergency. The Federal Emergency Management Agency (FEMA) was called into action and a Cuban/Haitian Task Force was appointed to assist in resettlement efforts. Thousands of south Florida volunteers worked around the clock in an attempt to process the immigrants.

Under existing immigration law, this group of immigrants did not have any legal status and therefore was not eligible for social services or work permits. President Carter, by Executive Order, created a special immigration status of "entrant" for the Cuban/Haitians. This new immigration classification meant that their legal status is pending, but no longer illegal. The Fascell/Stone amendments to *The Refugee*

Education Assistance Act of 1980 provided these entrants access to refugee programs authorized by the *1980 Refugee Act*. Although the original intent of the Mariel Boatlift was family reunification, a portion of those who arrived in the United States were discovered to be criminals and/or mental patients that the Cuban government released from their custody⁷. Mariel Cubans are still incarcerated in Florida and other state correctional facilities, as some are still serving sentences for crimes committed in the United States. Most, however, are held because they are deemed as deportable but cannot be deported to their country of origin since Cuba does not have formal diplomatic relations with the United States. As with extradition agreements, both countries must agree to deportation policies.

Between 1971 and 1981, approximately 35,000 to 45,000 Haitian boat people made their way to the United States. Partly in response to this development, and an increased incidence in loss of life of the migrants on the open seas, in 1981 President Reagan issued Executive Order 12324, which initiated the Alien Migration Interdiction Operation, known as the Haitian Interdiction Program.

This program is based on an agreement with the Haitian government according to which the U.S. Coast Guard may board vessels bound for the United States and make inquiries about the legal status of the passengers on board. In cases of a violation of U.S. law or an appropriate Haitian law, the vessel and the persons aboard may be returned to Haiti. These vessels are usually found in the Windward Passage, at its narrowest, a fifty mile wide strait between Cuba and Haiti. Since the program began, the number of Haitians arriving in Florida has dropped precipitously, and only an estimated 1,000 Haitians had entered the United States during the first eight years following the initiation of the interdiction program.

A military coup in 1991 of the democratic government in Haiti created considerable turmoil on the island and caused thousands of Haitians to flee their homeland. The U.S. Coast Guard, from September 1991 through May 1992, interdicted over 35,000 of these Haitians. Because of the large number of interdictions, the Administration narrowed its policy of interviewing potential refugees on their legal status, and began returning them to Haiti without processing. As a result of subsequent human rights litigation on behalf of the Haitians, a refugee camp was opened in November, 1991 on the Guantanamo Bay U.S. Naval Station (Cuba) to process these Haitians. Ultimately over 10,000 Haitians were paroled into the U.S. with over 80% staying in Florida.

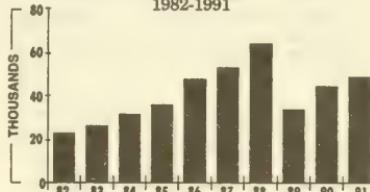
⁷ *The Mariel Exodus: A Year in Retrospect*, Silvia M. Unzueta, Special Projects Administrator for Refugee Affairs, Metropolitan Dade County Government, April, 1981.

In 1992, President Bush issued Executive Order 4865 that permitted the U.S. Coast Guard to suspend the entry of all undocumented aliens into the United States by the high seas and allowed their return to the country of origin. The new order permitted the U.S. Coast Guard to begin returning Haitians picked up at sea (outside of U.S. territorial waters) directly to Haiti.

Legal Immigration to Florida

Florida currently receives approximately 50,000 legal immigrants each year. The state gained 600,000 foreign-born residents during the 1980s, and this trend is likely to continue through the 1990s. Figure 2-3 shows the actual number of legal immigrants from 1982 through 1991 processed by the Immigration and Naturalization Service in Florida.

Figure 2-3
Legal Immigrants to Florida
1982-1991



Source: Immigration and Naturalization Service annual statistics on computer tape.

Illegal Immigration to Florida

Undocumented aliens have either entered the United States illegally, or entered legally but subsequently violated the terms of their visa. The Immigration and Naturalization Service estimates in their October, 1992 survey that Florida now has 345,000 illegal aliens, the *third* highest population of all states behind only California and New York. A similar look by the Census Bureau in 1980 showed Florida having the *fifth* largest illegal alien population.

The *Immigration and Reform Control Act of 1986* (IRCA) provided amnesty to undocumented aliens and Special Agricultural Workers (SAWs). In Florida, 158,386 aliens applied for amnesty (49,953 were undocumented aliens and 108,433 were SAWs). Other states who had a large number of applications for amnesty include California (1,634,149), Texas (441,485), New York (170,658), and Illinois (159,861).

Over the last six months of 1993, the U.S. Coast Guard has noticed a significant increase in the number of refugees attempting to reach Florida's shores. In October, 1993, the U.S. Coast Guard rescued 641 Cuban refugees and 148 Haitian refugees⁸. This was the largest number of Cuban rescues in one month since the 1980 Mariel boatlift.

Apprehension upon entry into the United States without documentation can result in deportation. The large number of criminal and mentally ill Mariel Cubans who entered during the boatlift were considered excludable under United States immigration policy and therefore categorized for deportation. However, due to lack of diplomatic relations with Cuba, it was not feasible to deport these excludables to their country of origin.

In 1984, the United States government signed an agreement with the Cuban government providing for the deportation of 2,700 specifically chosen Mariel Cubans. Many on this list have been deported and currently the U.S. Departments of Justice and State are considering an extension of the agreement to include an additional 1,500 Mariel Cubans to be deported⁹.

Figure 2-4
Estimated Undocumented Alien Population in Florida
COUNTRY OF ORIGIN



Source: Materials provided by the U.S. Department of Justice, Immigration and Naturalization Service.

⁸ 7th U.S. Coast Guard District Office, Florida Department of Health and Rehabilitative Services, Refugee Administration Office, December 6, 1993.

⁹ Press release provided by the U.S. State Department, Cuban Deak, January, 1994.

CHAPTER THREE

THE ESTIMATED AND DOCUMENTED COST OF IMMIGRATION TO FLORIDA



"Resolved, If the Senate concur, that in the face of the recent decision of United States Justice Biatchford that no tax can be collected in the form of head money by inspection for the hundreds of thousands of immigrants landing from foreign ports in the harbor of New York; and with the probability that the 400,000 landing there the past year may be increased by 50,000 in number during the present year, that our Senators and Representatives in Congress be most earnestly urged to pass some law to protect the State from the care and expense which belongs to the unwise and unjust importation of persons . . ."

Resolution adopted by the
State of New York House of Representatives,
New York Times, February 15, 1882

Estimated State Expenditures

Fortunately, our nation's views on immigration have never reflected those expressed by the New York House of Representatives in 1882. However, one element still rings true...federal responsibility for the cost of programs and services provided to the immigrant population.

America, and Florida, is proud of its immigration tradition. We are a nation of immigrants founded upon the principles of hard work and unity. These values built our nation, state by state, into a mighty democracy and land of opportunity. However, federal immigration policies have placed an inordinate burden on Florida's education, health care, and correctional systems. The cost of programs and services in each of these areas alone fall disproportionately on a handful of states, including Florida. State and local governments have had little incentive to record the cost, or the level of services provided to non-citizen residents due, in part, to the fact that these costs have never been totally reimbursed by Washington. In addition, court rulings and legal agreements have either seriously hampered or, in some instances, actually prevented state and local officials from determining an individual's immigration status.

Table 3-1
Estimated Total Immigration Costs

FLORIDA - FISCAL YEAR 1993

DEPARTMENT	COSTS
EDUCATION *	
COST PER STUDENT	\$3,930
# OF LEP** STUDENTS	131,715
ESTIMATED COST	\$517,630,598
AGENCY for HEALTH CARE ADMINISTRATION	
MEDICAID ***	\$11,700,000
HRS	
AFDC ***	\$9,200,000
FOODSTAMPS ADMINISTRATION ***	\$4,800,000
County Health Units	
Statewide Budget	\$173,725,430
% Non-Citizens ****	7.3%
Total	\$12,681,956
TOTAL	\$26,561,956
CORRECTIONS	
MARIEL INCARCERATIONS ***	\$9,500,000
OTHER ALIEN INCARCERATIONS ***	\$27,700,000
ALIEN SUPERVISION ***	\$6,800,000
TOTAL	\$44,000,000
JUDICIAL (STATE COURTS)	
STATEWIDE BUDGET	\$391,602,329
% STATE NON-CITIZENS	7.3%
TOTAL	\$28,586,970
LAW ENFORCEMENT	
STATEWIDE BUDGET	\$91,517,353
% STATE NON-CITIZENS	7.3%
TOTAL	\$6,880,757
PUBLIC INFRASTRUCTURE	
EDUCATION ***	\$24,400,000
CORRECTIONS ***	\$6,200,000
Transportation	
State Funding	\$1,168,200,000
% Non-Citizens	7.3%
Total	\$85,278,600
INFRASTRUCTURE TOTAL	\$115,878,600
TOTAL	\$751,158,891

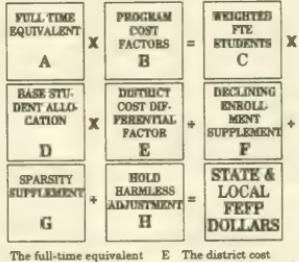
NOTES:
 * CONTAINS STATE AND LOCAL SCHOOL DISTRICT COSTS
 ** LEP - LIMITED ENGLISH PROFICIENT
 *** DOCUMENTED FISCAL IMPACTS WERE USED AS AVAILABLE
 **** FLORIDA 1990 CENSUS PERCENTAGE NON-CITIZENS

Yet, despite these hurdles, it is possible to ascertain a reasonable estimation of the actual cost of immigration to the state. By using documented costs as a base and projecting these numbers using varying methodologies, it is possible to determine a number which more closely reflects actual costs.

Education represents the largest single cost of immigration to the State of Florida. Over 70% of the total 1993 estimated annual cost of \$751.2 million (see *Table 3-1*) is attributable to extra teachers, schools, desks and other requirements necessary to educate Florida's growing number of LEP students. Nearly one-half of these students reside in Dade county.

The formula utilized to determine an actual cost of LEP students is the same as utilized by the state to calculate state appropriations to each school district (see *Figure 3-1*). The mathematical structure for this calculation is provided for in Florida Statutes as part of the Florida Education Finance Program (FEFP). This formula generates an overall per pupil cost, and

Figure 3-1
Distribution Formula



- A The full-time equivalent student membership in each program; multiplied by
- B The cost factor for each student individual
- C The weighted FTE students; multiplied by
- D The base student allocation; multiplied by
- E The district cost differential factor; plus
- F The declining enrollment supplement; plus
- G The sparsity supplement; plus
- H The hold harmless adjustment.

that figure, when multiplied by the number of LEP students, was used to calculate a total of \$517,630,598 for the education of LEP students in fiscal year 1993. Over the last five years that figure has averaged \$427 million. The numbers identified in *Table 3-1* for health and human services programs and corrections are documented costs supplied by appropriate agencies of state government. State expenditures for operation of the state court system and law enforcement were calculated upon the percentage of total state dollars for these programs attributable to non-citizen aliens residing in Florida.

The balance of this chapter is organized into two sections. The first section reviews the amount of federal funding received by state and local governments as reimbursement for providing immigrant programs. Since there are relatively few federally funded programs available to immigrants, and since these programs are coupled with federal reporting requirements, most of the cost reimbursements and other federal funds expended on immigrants in Florida have been identified and are included in this report. The four major federal funding programs identified in this section are:

- State Legalization Impact Assistance Grant (SLIAG)
- Refugee Cash and Medical Assistance (CMA)
- Targeted Assistance
- Social Services

The last section of this chapter provides a listing of documented unreimbursed costs incurred by federal, state, and local governments of services provided to immigrants. All available data are included in the tables which follow. For several reasons, including varying program start up dates, and either incomplete or unavailable computerized records, information beginning in fiscal year 1980 is very limited. This section also includes a listing of costs incurred by voluntary, private non-profit and for-profit organizations. The listing of known costs are identified under the following six headings:

- Education
- Health Services
- Social Services
- Criminal Justice
- Public Infrastructure
- Private Entity Costs

Program funding and cost figures were obtained from state and local governments and other local organizations. State agencies were asked to provide information on federal programs they administered that provided services to immigrants. When appropriate, this information included the distribution of funds to local governments or other local service providers. Additional information was collected through a series of 10 workshops with local governments and private organizations conducted between May and August, 1993. The collection of information regarding costs incurred by private, nonprofit organizations was augmented through a survey.

Major Federal Funding Programs

STATE LEGALIZATION IMPACT ASSISTANCE GRANT (SLIAG)

The Immigration Reform Control Act of 1986 (IRCA) provided amnesty for undocumented aliens and special agricultural workers who met the following qualifications:

- Residence in the United States during specified periods of time,
- Demonstration of proficiency in English and the history of the United States, and
- The ability to be economically self sufficient (not be a public responsibility).

Undocumented aliens had eighteen months in which to apply to change their status from temporary legal, which they had applied for and gained through IRCA, to become permanent residents. Those wishing to subsequently become United States citizens could do so after meeting the five-year permanent legal residency status required by the federal government. The Immigration and Naturalization Service estimated that approximately 158,000 aliens applied for legalization in Florida.

Aliens granted amnesty under IRCA were prohibited from receiving assistance under certain federal health and human services programs for a period of five years from the date on which temporary resident status was received. The concern at the federal level was that aliens would forgo legal employment for a life on public

assistance once legal residency status was achieved. Similarly, IRCA permitted state and local governments to disqualify these newly legalized aliens from medical and financial assistance programs provided at the state and local levels¹⁰.

The Immigration Reform Control Act of 1986 also established the SLIAG¹¹ program. This program had two objectives: (1) to reassure state and local governments that Eligible Legalized Aliens (ELAs)¹² would not become a major financial burden, and (2) provide some assistance to ELAs during their transition to full employment. The SLIAG program provided federal reimbursements to state and local governments for costs incurred in providing services to ELAs for public assistance, public health, and educational services. Federal funds are divided among affected states according to the relative number of aliens and their costs.

One reimbursement procedure was based on the Cost Documentation System (CDS). This system, which was created by the Immigration and Naturalization Service (INS), essentially matches Social Security numbers and Alien Registration numbers assigned at the time the ELAs applied for legalization, to records kept by state and local service providers. The INS contracts with Martin Marietta, a large corporation based in Bethesda, Maryland, to receive the information on computer tape and cross reference the two databases for verification.

SLIAG Education dollars can be used for General Education Diploma (GED) instruction, Limited English Proficiency programs, instruction of United States government and history, and adult education. SLIAG

Table 3-2
SLIAG Reimbursements to Florida

FISCAL YEAR	EDUCATION	PUBLIC ASSISTANCE	PUBLIC HEALTH	OTHER ¹³	TOTAL
1988	\$ 2,750,069	\$ 4,325,920	\$ 226,676	\$ 278,227	\$ 7,596,643
1989	\$ 8,951,205	\$ 9,192,115	\$ 416,190	\$ 946,327	\$ 19,818,628
1990	\$ 8,624,321	\$ 13,584,878	\$ 491,886	\$ 1,555,367	\$ 24,653,934
1991	\$ 6,132,515	\$ 17,696,226	\$ 578,089	\$ 1,619,245	\$ 26,308,506
1992	\$ 3,826,133	\$ 20,426,131	\$ 472,328	\$ 1,380,860	\$ 26,948,513
1993	\$ 105,374	\$ 9,811,093	\$ 0	\$ 212,149	\$ 17,537,037
1994	\$ 0	\$ 1,001,279	\$ 0	\$ 21,886	\$ 1,023,165
	\$30,389,617	\$76,047,642	\$2,185,169	\$6,014,061	\$123,886,425
TOTAL FEDERAL GRANT (Five Years)					\$143,806,186
TOTAL REIMBURSEMENTS TO DATE					\$123,886,425
AVAILABLE BALANCE (As of February, 1994)					\$ 19,919,761

Source: Florida Department of Health and Rehabilitative Services, Florida Refugee Administration Office, SLIAG Actual Costs To Date, February 24, 1994.

¹⁰Section 201(h) of The Immigration Reform Control Act of 1986.

¹¹Section 204 of The Immigration Reform Control Act of 1986.

¹²An alien who has been granted lawful temporary resident status by IRCA. If granted, the alien could then apply for permanent residence within five years.

¹³Primarily administrative costs.

Public Assistance dollars can be used for a wide range of services including cash, medical, or other assistance necessary to meet basic subsistence. SLIAG Public Health dollars are primarily directed to health screening programs but can also be used for immunization and the treatment of sexually transmitted diseases. The SLIAG "Other" category includes miscellaneous items, primarily administrative costs.

All SLIAG money must be utilized by the states before the end of federal fiscal year 1994. Any unused funds will be reallocated to states with SLIAG shortfalls. A federal formula based upon level of need, will be used to make this determination. As of February 24, 1994, the initial \$143 million grant to Florida, had a balance of \$19.9 million (see Table 3-2). State officials expected that these dollars would be used to reimburse the cost of programs throughout the state before the end of this federal fiscal year.

REFUGEE CASH AND MEDICAL ASSISTANCE (CMA)

The *Refugee Act of 1980* established the Refugee Cash and Medical Assistance program (CMA). Cash and medical assistance is provided to refugees and entrants immediately after their arrival in the United States (see Figure 3-2). The intent of the program is to provide sufficient financial assistance until they are able to find employment or provide for their own basic human needs. Until October, 1990, the federal government reimbursed the states their portion of AFDC and Medicaid (approximately 50% for all). Those who meet AFDC eligibility requirements are automatically eligible for Medicaid benefits.

Refugees who do not meet the requirements of AFDC or SSI but show a special need, can receive cash assistance through the Refugee Cash Assistance (RCA) program. Refugees and entrants eligible for RCA, are automatically eligible for Refugee Medical Assistance (RMA). In fiscal year 1993, Florida received \$13.12 million from this program.

Figure 3-2
Cash and Medical Assistance Program

FLORIDA



* Includes Special Funding for the Mariel Boatlift.

Source: Florida Department of Health and Rehabilitative Services, Refugee Administration Office, *Florida Refugee Program Fact Book*, May, 1993

TARGETED ASSISTANCE

Targeted Assistance is an outgrowth of the 1981 Impact Aid program. This program was designed to provide funding to geographic areas which have received large numbers of refugees/entrants. In Florida, those counties are Broward, Dade, Hillsborough, and Palm Beach (see Table 3-3). Dade County's Jackson Memorial Hospital receives this special funding as well because it provides health related services to a large number of new refugees and entrants entering south Florida. Dade County Public Schools receives Targeted Assistance funding to reimburse costs for refugee/entrant students.

Table 3-3
Targeted Assistance Funding
FLORIDA

FISCAL YEAR	JACKSON MEMORIAL	DADE CO. SCHOOLS	FLORIDA COUNTIES ¹⁴
1981	\$ 0	\$4,978,433*	
1982	\$14,000,000	\$6,136,701	
1983	\$ 6,000,000	\$5,762,400	
1984	\$ 6,000,000	\$4,950,000	
1985	\$ 6,000,000	\$ 0	
1986	\$ 5,746,075	\$4,788,396	\$9,864,522
1987	\$ 0	\$ 0	\$ 0
1988	\$ 5,744,200	\$4,786,800	\$6,327,321
1989	\$ 5,675,300	\$4,729,400	\$3,692,529
1990	\$10,636,376	\$8,363,624	\$2,957,632
1991	\$10,379,904	\$8,161,955	\$3,384,419
1992	\$10,636,376	\$8,363,624	\$3,139,190
1993	\$10,636,376	\$8,363,624	\$4,211,071

*Impact Aid Program

TOTAL FEDERAL EXPENDITURES \$194,416,248
TOTAL FUNDING TO LOCALS \$102,961,641
TOTAL FUNDING TO PRIVATE ENTITIES \$91,454,607

Source: Federal Register Publication of Annual Targeted Assistance Funding, Dade County Public Schools.

SOCIAL SERVICES

An additional federal funding program created by the *Refugee Act of 1980* is the Social Services program. The federal government provides funding for a broad range of social services to refugees (see Table 3-4). Monies are provided for assistance in English language proficiency, vocational training, and employment counseling. Eighty-five percent of all funds available to the states are allocated based on the total number of refugees who entered the state within the last three years. The other fifteen percent is applied on a discretionary basis and is used to address the needs of special populations. The main goal of the Social Services program is to place refugee/entrants into the work force and integrate them into the communities.

¹⁴ Counties that received Targeted Assistance funding are Broward, Palm Beach, Hillsborough and Dade.

Table 3-4
Social Services Funding
FLORIDA

FISCAL YEAR	FEDERAL EXPENDITURES
1982	\$11,216,042
1983	\$9,769,710
1984	\$8,926,571
1985	\$1,570,573
1986	\$1,330,385
1987	\$1,243,227
1988	\$1,247,746
1989	\$2,787,174
1990	\$3,529,671
1991	\$4,129,101
1992	\$4,221,221
1993	\$5,306,070
TOTAL	\$55,277,491

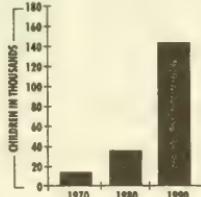
Source: Florida Department of Health and Rehabilitative Services, Refugee Administration Office, Florida Refugee Program Fact Book, May, 1993.

Documented Cost of Immigration

EDUCATION

Education costs for immigrants tend to be higher than for native born citizens. This is due, in part, because of the need for English language assistance in order to assimilate children into the educational mainstream, or in the case of adults, before they can join the work force. Most of the programs identified in this section provide some degree of English language assistance and/or other aid so that immigrant students receive a comparable education regardless of their initial proficiency in the English language. Figure 3-3 indicates the increase in the number of school aged immigrants arriving in Florida.

Figure 3-3
Florida School-Aged Foreign Born Population



Source: U.S Department of Commerce, Bureau of the Census, 1990 Public Use Microdata Sample (PUMS).

The following represent several key programs monitored and administered through the Florida Department of Education, which provide services to both children and adult immigrants.

Emergency Immigrant Education Program (EIEP)

The EIEP was funded by the *Emergency Immigrant Education Act of 1984*, and amended by the Hawkins-Stafford Elementary and Secondary School Improvement Amendments in 1988. EIEA funds provide supplemental education assistance for immigrant students, and for the training of teachers responsible for instructing these students in both public and non-public elementary and secondary schools. Eligible students must be officially classified by the U.S. Department of Justice (Immigration and Naturalization Service) as immigrants, and they must have resided in the United States for less than three years.

In order for a school district to be eligible, it must have at least 500 students or three percent of its student population classified as immigrants. The federal government provides all funds to the school districts for this program. The Florida Department of Education can use up to 1.5% of all funds received for administrative costs. Table 3-5 outlines the state totals for fiscal years 1988 through 1993.

Table 3-5
Florida EIEP Student funding
 100% FEDERALLY FUNDED

FISCAL YEAR	NUMBER STUDENTS	FUNDING
1988	17,697	\$1,094,687
1989	20,678	Not Available
1990	28,505	Not Available
1991	18,697	\$ 935,940
1992	23,893	\$1,017,709
1993	33,075	\$1,282,260
1994	43,130	\$1,538,453

TOTAL FEDERAL EXPENDITURES	\$ 5,869,049
LOCAL EXPENDITURES	\$ 41-150 Million¹⁵

Source: Florida Department of Education, Office of Multicultural Student Language Education, September, 1993.

¹⁵Note: For only Broward County for Fiscal Years 1988-1994.
 Source: Broward County Public Schools, Florida Advisory Council on Intergovernmental Relations.

Dade County Schools Refugee/Entrant Program

This program receives Targeted Assistance dollars which are designed to reimburse counties for costs associated with refugees/entrants due to their high concentration in that county. The entire program is federally funded with a maximum of 5% allocated to the state for administrative costs (see Table 3-6).

Table 3-6
**Targeted Assistance to
Dade County Schools
100% FEDERALLY FUNDED**

FISCAL YEAR	ACTUAL RECEIPTS
1981	\$4,978,433
1982	\$6,136,701
1983	\$5,762,400
1984	\$4,950,000
1985	\$ 0
1986	\$4,788,396
1987	\$ 0
1988	\$4,786,800
1989	\$4,729,400
1990	\$8,363,624
1991	\$8,161,955
1992	\$8,363,624
1993	\$8,363,624
TOTAL FEDERAL EXPENDITURES	\$70,384,954

Source: Federal Register Publication of Annual Targeted Assistance, Dade County Public Schools.

The U.S. Department of Health and Human Services (HHS), through the Targeted Assistance program, provides Dade County with annual supplemental funds

to educate students who have been officially classified as either Cuban or Haitian entrants, or refugees (see Table 3-7).

Table 3-7
**Targeted Assistance to
Dade County Schools**

NUMBER OF STUDENTS IMMIGRATION STATUS	1991	1992	1993	FISCAL YEAR
Cuban Entrant	6,086	4,376	1,582	
Haitian Entrant		993	792	699
Laotian Refugees		1	2	2
Vietnamese Refugees		86	66	60
TOTAL	7,166	5,236	2,342	

Source: Florida Department of Education, Office of Multicultural Language Student Education, September, 1993.

English for Speakers of Other Languages (ESOL)

In August 1990, the Florida Department of Education signed a consent decree with a student advocacy group known as Multicultural Education Training Advocacy, Inc. (META), which stated that all students with limited English proficiency shall be appropriately identified and that certain basic English language instruction will be provided. The META agreement is also significant because it prevents the state from requesting specific information relative to immigration status (except for information relative to the Emergency Immigrant Education Program and refugee education programs). Beginning in fiscal year 1990-91, all students were surveyed on their English proficiency, and new students have been surveyed in subsequent years. Students classified as Limited English Proficient (LEP) became eligible for appropriate classroom instruction.

Table 3-8
ESOL Program, State Funding

FISCAL YEAR	D O L L A R S B Y G R A D E S			TOTAL
	K-3	4-8	9-12	
1988	\$34,538,205	\$16,267,171	\$5,959,114	\$56,764,490
1989	\$50,695,583	\$27,220,514	\$11,517,659	\$89,433,756
1990	\$76,576,913	\$39,164,896	\$16,920,407	\$132,662,216
1991	\$106,675,667	\$64,795,037	\$24,146,744	\$195,617,448
1992	\$116,849,911	\$74,482,148	\$34,690,448	\$226,022,507
1993*	\$133,907,628	\$79,900,844	\$40,405,260	\$254,213,732
TOTAL	\$519,243,907	\$301,830,610	\$133,639,632	\$954,714,149

* Preliminary

TOTAL STATE EXPENDITURES \$954,714,149 (General Revenue)

TOTAL LOCAL EXPENDITURES \$150,625,946¹⁶

Source: Florida Department of Education, Division of Public Schools, Financial Management Section, Profiles of Florida School Districts Financial Data Statistical Report, fiscal years 1988-1993.

¹⁶Note: The ESOL estimate is only for Broward County for fiscal years 1988-93. Source: Broward County School District, Florida Advisory Council on Intergovernmental Relations.

Those students defined as LEP include:

- Students born outside the United States whose native language is not English,
- Students who reside in a household where a language other than English is spoken,
- American Indian and Alaskan natives with limited English proficiency, and
- Any student with sufficient difficulty in reading, writing, or listening to the English language.

Each student who has been classified as Limited English Proficient (LEP) must continue to receive classroom instruction until that student is finally reclassified as English proficient. Classroom programs include instruction in reading and writing, comprehension, and communication.

An additional cost associated with the ESOL program involves teacher training. The Division of Human Resource Development, within the Florida Department of Education, has created a mandatory ESOL teacher training program.

Transitional Program for Refugee Children (TPRC)

This program, which received federal funds from 1984 through 1988, provided supplemental education assistance for refugee students and teacher training. Classification as a refugee by the Immigration and Naturalization Service was required for eligibility.

The federal government provided all program funds directly to the school districts.

Information on funding levels and numbers of refugees served was unavailable. Both the Florida and U.S. Departments of Education (DOE) have destroyed all records related to this program. The Florida DOE destroyed their records in accordance with state record retention and archiving regulations.

School Nutritional Food Program

The Bureau of Food and Nutrition Management within the Florida Department of Education provides free and subsidized meals to qualified persons under the age of 21. Qualifications are based upon household income and size. Meals are provided in public and private schools, youthful offender programs conducted by the Florida Department of Corrections, and in Halfway Houses through the Florida Department of Health and Rehabilitative Services.

These programs are funded by federal, state, and local governments, and by those enrolled in the program. Table 3-9 shows the levels of funding by sector of government.

Adult Education

According to the Florida Department of Education, approximately 2.7 million adult Floridians had less than an eighth grade formal education as of 1992¹⁷. In

Table 3-9
School Child Nutrition Programs: Costs for the Limited English Proficient

FISCAL YEAR	FEDERAL	STATE	SCHOOL DISTRICTS	TOTAL
1979/80	\$ 8,929,716	\$ 575,839	\$ 430,658	\$ 9,936,213
1980/81	\$ 9,836,924	\$ 657,581	\$ 681,969	\$ 11,176,474
1981/82	\$ 9,122,360	\$ 769,469	\$ 368,874	\$ 10,260,703
1982/83	\$ 10,312,720	\$ 737,663	\$ 512,397	\$ 11,562,780
1983/84	\$ 10,881,117	Not Available	Not Available	Not Available
1984/85	No Available	Not Available	Not Available	Not Available
1985/86	\$ 11,606,005	\$ 797,067	\$ 1,179,177	\$ 13,582,248
1986/87	\$ 12,932,914	\$ 828,358	\$ 298,861	\$ 14,060,133
1987/88	\$ 13,796,036	\$ 841,705	\$ 302,017	\$ 14,939,758
1988/89	\$ 15,440,794	\$ 864,041	\$ 581,658	\$ 16,886,493
1989/90	\$ 18,029,064	\$ 878,974	\$ 896,040	\$ 19,804,078
1990/91	\$ 21,115,898	\$ 894,165	\$ 589,096	\$ 22,599,158
1991/92	\$ 24,306,962	\$ 1,187,510	\$ 446,135	\$ 25,940,607
1992/93	\$ 27,522,300	\$ 1,211,547	Not Available	\$ 28,733,846
TOTAL	\$193,832,811	\$10,243,917	\$6,282,348	\$210,363,608
TOTAL FEDERAL EXPENDITURES	\$193,832,811			
TOTAL STATE EXPENDITURES		\$10,243,917	(General Revenue)	
TOTAL LOCAL EXPENDITURES		\$6,282,348		

Source: Florida Department of Education, Division of Public Schools, Food and Nutritional Management, Annual Report of Child Nutrition Programs, Fiscal Years 1980-1993.

¹⁷ Florida Department of Education, Adult Education Programs publication, Spring, 1993.

addition, there are a large number of adult immigrants who have advanced levels of education but have limited English language skills. These individuals have created a great demand for adult education in Florida. Both the state and individual students have realized substantial benefits from these adult education programs.

The primary objective of the Adult Education program is twofold: (1) provide basic education skills for those who may be illiterate so that they may function independently, and (2) provide sufficient education to enable them to find a job and perform a productive role in the Florida economy. Job training, English literacy, and other Adult Education programs are all vitally important to the assimilation of Florida's immigrants.

In fiscal year 1992, the ESOL program provided services to over 100,000 adult Floridians at an approximate cost of \$41.3 million¹⁸. Of this amount, \$23.5 million were funds allocated by the state, \$16.2 million was contributed by school districts, and \$1.6 million was provided by the federal government.

HEALTH SERVICES

Refugee/entrants often require health related services both immediately after arriving in the United States and on an ongoing basis. Health screenings, which are provided to each refugee/entrant upon arrival, are performed as a preventative measure against contagious diseases such as hepatitis and tuberculosis. In fact, this step has proven to be a very important tool in identifying debilitating diseases which, if left undetected, can be very costly to treat.

Health Screenings

The Center for Disease Control (CDC) monitors overseas refugee health screenings and provides funding to selected state and local health agencies responsible for health screenings and care in Florida. In fiscal year 1992, county health units performed 5,383 refugee health screenings at a cost of \$410,155. In fiscal year 1993, there were 7,191 health screenings at a cost of \$949,285¹⁹. The combined two year total documented health screening expenditures in Florida was \$1,359,440. This amount has been reimbursed by the federal government through the Refugee Medical Assistance funding program.

Medicaid

Medicaid is a joint state/federal program designed to provide medical assistance to financially needy individuals (see Table 3-10).

This program is an automatic benefit for those individuals who receive AFDC or SSI direct assistance. Potential recipient families must meet certain income, citizenship and other qualifications to receive Medicaid. Individuals not eligible include undocumented aliens²⁰ and former undocumented aliens who became legalized as a result of the 1986 IRCA. The IRCA legalized aliens become eligible five years after legalization. Given that the amnestyed aliens had been provided this status between 1986 and 1988, many of these individuals have entered the eligibility mainstream during the last several years. In fact, all of the IRCA legalized aliens would potentially be eligible by the end of calendar year 1994.

Table 3-10
Medicaid Expenditures for Florida Non-Citizens

FISCAL YEAR	NUMBER OF RECIPIENTS	TOTAL EXPENDITURES	FEDERAL EXPENDITURES	STATE EXPENDITURES
1989	22,969	\$ 53,525,081	\$ 30,755,146	\$ 22,769,935
1990	21,799	\$ 53,075,756	\$ 30,166,305	\$ 22,909,451
1991	22,083	\$ 50,213,458	\$ 28,726,339	\$ 21,487,119
1992	23,769	\$ 53,827,671	\$ 31,679,420	\$ 22,148,251
1993	27,211	\$ 55,493,013	\$ 34,161,692	\$ 21,331,321
		\$266,134,979	\$155,488,902	\$110,646,077
FEDERAL REIMBURSEMENTS²¹			+ \$40,372,718	-\$40,372,718
			\$195,861,620	\$70,273,359
			NET FEDERAL COST	NET STATE COST

Source: Florida Department of Health and Rehabilitative Services, Medicaid Management Information System, Ad Hoc computer run 93-418, October, 1993, and materials provided January 12, 1993.

¹⁸ Florida Department of Health and Rehabilitative Services, Refugee Health Screening Project, Refugee Health Screening Statistics, October 1993.

¹⁹ Except for emergency Medicaid coverage which includes emergency labor and delivery.

²⁰ Reimbursements from the federal government to Florida through the State Legislation Impact Assistance Grant (SLIAG) Program and the Refuge Assistance Program which ended in 1991.

²¹ Florida Department of Education, Division of Vocational, Adult, and Community Education, 1992 Numbers Report.

Medicaid funding is shared between the federal government and the State of Florida by the same percentage that governs the AFDC program. Shared funding is based on each state's per capita income and is adjusted each year. In fiscal year 1994, Florida's percentage was approximately 45%²². As of fiscal year 1991, the states were no longer reimbursed for their portion of Medicaid costs for immigrants through the Refugee Assistance program.

The Omnibus Budget and Control Act of 1986 mandated that states provide emergency services under Medicaid to undocumented aliens. The following table contains information on expenditures for both undocumented aliens and amnestyed aliens. Medicaid costs for undocumented aliens (see Table 3-11) are part of the net state costs as shown in Table 3-10. This includes labor and delivery costs for expectant mothers. The costs for the amnestyed aliens are totally reimbursed through the SLIAG program.

Table 3-11

Medicaid Expenditures in Florida

FISCAL YEAR	UNDOCUMENTED ALIENS		AMNESTIED ALIENS	
	FEDERAL COSTS	STATE COSTS	FEDERAL COSTS	STATE* COSTS
1988	\$ 768,067	\$ 618,585	\$ 1,006,713	\$ 810,787
1989	\$ 1,296,614	\$ 1,053,176	\$ 2,798,902	\$ 2,273,410
1990	\$ 2,725,159	\$ 2,256,851	\$ 6,939,388	\$ 5,746,878
1991	\$ 4,408,427	\$ 3,686,371	\$ 11,729,693	\$ 9,808,488
1992	\$ 6,266,476	\$ 5,191,699	\$ 14,798,368	\$ 12,260,267
	\$15,464,743	\$12,806,682	\$37,272,064	\$30,899,830

* State costs were reimbursed.

Source: Florida Department of Health and Rehabilitative Services, Medicaid Management Information System, Special run for the Federal Government Accounting Office, August, 1993.

Women with Infant Children (WIC)

The WIC program provides supplemental food, nutritional counseling, and health care referrals to mothers with children under five years of age. To qualify they must meet certain family income levels and be poorly nourished. This program is totally funded by the federal government and in fiscal year 1993 provided services in Florida to approximately 7,500 foreign-born mothers at a cost of nearly \$15 million.

²² Florida assesses counties 35% of total cost of hospital inpatient days 13-45, and \$55/month for nursing home care. The funds collected are deposited directly into the General Revenue Fund and do not directly affect Florida's Medicaid budget. Since FY 1988, a total of \$393.1 million has been collected from the counties.

Table 3-12
Women with Infant Children (WIC)

100% FEDERALLY FUNDED

FISCAL YEAR	FOREIGN BORN EXPENDITURES
1980	\$ 2,531,778
1981	\$ 3,255,250
1982	\$ 3,347,043
1983	\$ 4,158,743
1984	\$ 4,837,964
1985	\$ 5,643,933
1986	\$ 6,350,673
1987	\$ 7,094,189
1988	\$ 7,896,302
1989	\$ 8,827,095
1990	\$ 10,540,193
1991	\$ 11,538,053
1992	\$ 13,682,814
1993	\$ 14,962,589
1994*	\$ 18,686,150

TOTAL FEDERAL EXPENDITURES \$123,352,768

* Estimated.

Source: Florida Department of Health and Rehabilitative Services, Office of Accounting Services, Monthly WIC Program Participation Report, November, 1993.

SOCIAL SERVICES

Immigrants also need assistance in non-health related areas such as job training and short term public assistance such as Aid to Families with Dependent Children (AFDC). Job training, which often leads to employment, plays a vital role in moving immigrants into the workforce.

Aid to Families with Dependent Children (AFDC)

The AFDC program provides assistance for basic needs such as food and shelter to qualifying families with children. These families must meet certain income, immigration status, and other qualifications to receive AFDC. The AFDC program is jointly funded by the federal government and the states. Qualification requirements are found in Title IV-A and Title XIX of the Social Security Act, Chapter 409 of the Florida Statutes, and Chapter 10C-1 and 10C-8 of the Florida Administrative Code.

Potential recipient families must be headed by a United States citizen or an alien lawfully admitted for permanent residence. Those aliens lawfully admitted for permanent residence include refugees, legal immigrants, and entrants. Those persons not eligible include undocumented aliens and those undocumented aliens who became legalized as a result of IRCA. The IRCA legalized aliens become eligible after five years. Those eligible for AFDC automatically qualify for Food Stamps and Medicaid. If an undocumented immigrant gives birth in the United States, and the family meets certain income and other qualifications, the child is eligible to receive AFDC payments.

Table 3-13
AFDC Refugee Usage
FLORIDA

FISCAL YEAR	TOTAL EXPENDITURES	FEDERAL SHARE	STATE SHARE	FEDERAL DOLLARS	STATE DOLLARS
1980	\$ 6,230,591	58.94%	41.06%	\$ 3,672,310	\$ 2,558,281
1981	\$ 5,815,005	58.94%	41.06%	\$ 3,427,364	\$ 2,387,641
1982	\$10,016,247	56.18%	43.82%	\$ 5,627,128	\$ 4,389,119
1983	\$ 8,806,293	55.60%	44.40%	\$ 4,896,299	\$ 3,909,994
1984	\$ 935,999	55.78%	44.22%	\$ 522,100	\$ 413,899
1985	\$ 462,077	58.41%	41.59%	\$ 269,899	\$ 192,178
1986	\$ 307,504	56.16%	43.84%	\$ 172,694	\$ 134,810
1987	\$ 291,381	56.16%	43.84%	\$ 163,640	\$ 127,741
1988	\$ 269,141	55.39%	44.61%	\$ 149,629	\$ 119,512
1989	\$ 326,049	55.18%	44.82%	\$ 180,038	\$ 146,011
1990	\$ 454,671	54.70%	45.30%	\$ 249,321	\$ 205,350
1991	\$ 261,358	54.46%	45.54%	\$ 142,460	\$ 118,898
1992	\$ 381,933	54.69%	45.31%	\$ 208,677	\$ 173,256
1993*	\$ 229,232	55.03%	44.97%	\$ 125,848	\$ 103,384
	\$34,787,481			\$19,807,407	\$14,980,074
			FEDERAL REIMBURSEMENTS	+\$14,584,536	-\$14,584,536
				\$34,391,943	\$395,538
				NET FEDERAL COST	NET STATE COST

* Estimated

- Estimated
Source: Florida Department of Health and Rehabilitative Services, Office of Economic Services, October, 1993

Table 3-14
Food Stamps Expenditures
FLORIDA
100% FEDERALLY FUNDED

FISCAL YEAR	TOTAL COUPONS	PERCENT INCREASE	PERCENT NON-CITIZENS	COUPONS TO NON-CITIZENS
1980	\$392,301,148		8.3%	\$32,656,639
1981	\$495,717,162	26.4%	8.5%	\$41,978,555
1982	\$460,527,426	7.1%	8.6%	\$39,672,599
1983	\$460,247,060	0.1%	8.8%	\$40,333,676
1984	\$393,550,957	14.5%	8.9%	\$35,084,830
1985	\$365,886,611	7.0%	9.1%	\$33,182,304
1986	\$361,402,710	1.2%	9.2%	\$33,342,108
1987	\$367,304,576	1.6%	9.4%	\$34,472,248
1988	\$403,989,296	10.0%	9.5%	\$38,570,454
1989	\$453,638,944	12.3%	9.7%	\$44,059,224
1990	\$607,135,404	33.8%	9.9%	\$59,986,524
1991	\$865,362,041	42.5%	10.1%	\$86,977,636
1992	\$1,306,412,756	51.0%	10.2%	\$133,577,033
1993	\$1,335,914,172*	2.3%	10.4%	\$138,954,162
TOTAL	\$8,269,390,263			\$792,847,993
			Administrative Expenditure	+\$15,871,528
			Total Federal Expenditure	\$808,719,521
			TOTAL STATE EXPENDITURES (Administration costs)	\$13,536,046

* Projected Annualized Cost

Projected Annualized Cost
Source: Florida Department of Health and Rehabilitative Services, Office of Economic Services, Food Stamp Issuance System, Participation Summary Report, October, 1993.

Since fiscal year 1991, Congress has failed to reimburse the states for their portion of Refugee AFDC costs. Although all state expenditures before 1991 were reimbursed, Florida has assumed both the state and federal portion since that time (see Table 3-13).

Food Stamps

The Food Stamp program provides assistance to low income persons and families (see Table 3-14). They are provided coupons which can be used at grocery stores authorized by the U.S. Department of Agriculture (USDA). These coupons can only be used to purchase certain food items that the USDA views as nutritional.

Qualifications and the legal basis for the Food Stamp program can be found in The Food Stamp Act of 1977, The Omnibus Reconciliation Act of 1981, and The Food Security Act of 1985. All Food Stamp benefits are funded 100% by the federal government with the exception of the administrative costs which are shared approximately 55/45, federal/state¹².

As with the AFDC program, potential recipient families must be headed by a United States citizen or an alien lawfully admitted for permanent residence. Those aliens lawfully admitted for permanent residence include refugees, documented immigrants, and entrants. Those persons not eligible include undocumented aliens and those undocumented aliens who became legalized as a result of IRCA. The IRCA legalized aliens become eligible after five years. Those eligible for AFDC automatically qualify for Food Stamps.

Supplemental Security Income (SSI)

Aged, blind, and disabled persons whose income falls below specified levels receive cash payments under the Supplemental Security Income program. As of December, 1992, Florida had 58,440¹³ legal aliens receiving cash through the SSI program (dollar figures were not available). As SSI eligible residents are automatically eligible for Medicaid, any change in such status and denial of Medicaid, would have an impact on health care costs of local providers.

Dade County Refugee/Entrant Employment Program

The South Florida Employment and Training Consortium was established in 1982 by Dade and Monroe counties, along with the cities of Miami, Hialeah, and Miami Beach, and administers federal grants to assist refugee/entrant residents (see Table 3-15). Specifically, these funds are used for job assistance programs similar to the Job Training Partnership Act (JTPA) and are received through the Refugee Social Services and Targeted Assistance funding programs.

Table 3-15
Dade County Entrant Employment Program
100% FEDERALLY FUNDED

GRANT PERIOD	TOTAL FEDERAL EXPENDITURES	NUMBER OF PARTICIPANTS
5/82 - 6/83	\$7,661,501	6,205
7/83 - 6/84	\$6,094,297	5,248
7/84 - 12/85	\$2,629,828	1,724
1/86 - 12/86	\$2,795,986	1,693
1/87 - 1/88	\$3,329,422	1,933
3/88 - 1/89	\$1,892,446	1,095
2/89 - 12/89	\$1,229,212	714
9/89 - 12/90	\$1,022,926	582
8/90 - 9/91	\$1,141,654	589
9/90 - 12/91	\$1,248,438	1,015
1/92 - 12/92	\$1,626,449	947
11/91 - 12/92	\$ 309,499	189
TOTAL	\$30,981,658	

Sources: South Florida Employment and Training Consortium, November, 1993.

¹² Effective April 1, 1994, the Food Stamps administrative costs for the states will increase to 50%.

¹³ U.S. Department of Health and Human Services, Office of Supplemental Security Income, "SSI Payments to Lawfully Resident Aliens", May, 1993.

Refugee Assistance Program

The Refugee Assistance Program (RAP) primarily provides cash assistance and medical help to refugees/entrants which enables them to achieve economic self-sufficiency. Since 1982, Florida has received over \$71 million in federal aid (see *Table 3-16*). This program is part of the Refugee Cash and Medical Assistance program which is funded 100% by the federal government.

Qualifications and other guidelines related to the RAP can be found in the Immigration and Nationality Act, the Migration and Refugee Assistance Act of 1962, Section 409.026, Florida Statutes, and the Florida Administrative Code, Chapter 10C-28.

Table 3-16
Refugee Assistance Program (RAP)
FLORIDA
100% FEDERALLY FUNDED

FISCAL YEAR	TOTAL FEDERAL EXPENDITURES
1982	\$39,331,369
1983	\$ 3,266,015
1984	\$ 1,282,320
1985	\$ 1,527,073
1986	\$ 1,202,897
1987	\$ 1,591,450
1988	\$ 1,769,116
1989	\$ 2,957,563
1990	\$ 2,657,744
1991	\$ 2,606,884
1992	\$ 4,553,443
1993	\$ 8,468,063
TOTAL	\$71,213,937

Source: Florida Department of Health and Rehabilitative Services, Office of Economic Services, October, 1993.

Unaccompanied Minors Program

Refugee/entrant children unaccompanied by an adult guardian are eligible for federal assistance under the Unaccompanied Minors Program. The federal government reimburses 100% of foster care costs associated with services for children through the Refugee Cash and Medical Assistance program. These children are generally eligible for the same services as non-refugee children. The children are typically placed in foster homes, group care, independent living, or residential treatment. The guardian is eligible for reimbursement until the child is either reunited with a parent, placed with an adult that receives legal custody, or reaches the age of 18 unless matriculating in GED or college programs.

Since the inception of the program in 1979, Florida has placed 129²⁵ unaccompanied refugee and entrant minors in foster homes and other living arrangements. Information on costs and reimbursement levels were not available.

Amerasian Initiative

Amerasians are children born in Vietnam to Vietnamese mothers and American fathers. In fiscal year 1992, 17,000 Vietnamese Amerasians entered the United States as a result of The American Homecoming Act of 1988. This was in addition to 40,000 Amerasians already resettled in this country. These new Amerasians are admitted with "immigrant" status, but are entitled to the same social services and assistance benefits as a refugee. By fiscal year 1992, 1,666 Amerasians had resettled in Florida. As a result, volunteer resettlement agencies in Jacksonville and Orlando received \$70,000²⁶ in federal assistance.

²⁵ Florida Department of Health and Rehabilitative Services, Refugee Administration Office, October, 1993.

²⁶ U.S. Department of Health and Human Services, Office of Refugee Resettlement, Report to Congress, January 31, 1993.

Table 3-17
Mariel Cuban Incarcerations in Florida Correctional Facilities

FISCAL YEAR	NUMBER OF INMATES	FLORIDA'S PER DIEM COST	FLORIDA'S TOTAL COST	FEDERAL AMOUNT REIMBURSED	FLORIDA'S NET COST
1986	Not Available	Not Available	Not Available	\$1,873,678	Not Available
1987	Not Available	Not Available	Not Available	\$1,809,442	Not Available
1988	810	\$35.78	\$10,578,357	\$1,744,178	\$8,834,179
1989	726	\$38.14	\$10,106,719	\$1,474,734	\$8,631,985
1990	710	\$39.73	\$10,296,030	\$1,388,332	\$8,907,698
1991	732	\$40.27	\$10,759,339	\$1,320,540	\$9,438,799
1992	548	\$41.92	\$8,384,838	\$1,158,890	\$7,225,948
1993	658	\$42.56	\$10,221,635	\$671,902	\$9,549,733
TOTAL FEDERAL EXPENDITURES				\$11,441,696	
TOTAL STATE EXPENDITURES				\$52,588,341	(General Revenue)

Source: Florida Department of Corrections, Bureau of Planning, Research, and Statistics, August 4, 1993.

CRIMINAL JUSTICE

The impact of immigration on the criminal justice system includes costs associated with incarceration, probation and parole, court proceedings, and law enforcement. Immigration costs and reimbursements are, in some cases, easily identifiable, such as in the Mariel reimbursement program. In other instances, information was not as readily available.

State Costs for Incarceration and Probation of Non-Citizen Aliens

Each year, the federal government appropriates a varying amount for reimbursement to states for the incarceration of Mariel Cubans convicted of a felony in the United States.

The reimbursement amount for each state is dependent on the level of federal funding and the percentage of the national total of Mariel Cubans incarcerated in a particular state. This money was originally appropriated in fiscal year 1986. The federal government takes responsibility for Mariel Cubans after they have completed their state sentence. They are either returned to Cuba, released, or incarcerated in a federal prison depending upon the circumstances.

Table 3-17 contains information related to costs associated with the incarceration of Mariel Cuban inmates. Since 1988, the State of Florida has assumed over \$52 million in unreimbursed costs. This figure represents a sum nearly five times greater than expenditures made by the federal government and has contributed to Florida's overcrowded prisons.

Table 3-18
Other Alien Incarcerations in Florida Correctional Facilities*
 100% STATE COSTS (GENERAL REVENUE)

FISCAL YEAR	NUMBER OF INMATES	STATES PER DIEM COST	STATES TOTAL COST [†]	FEDERAL AMOUNT REIMBURSED	STATES NET COSTS
1988	1,288	\$35.78	\$13,775,815	\$0	\$13,775,815
1989	1,425	\$38.14	\$17,844,516	\$0	\$17,844,516
1990	1,489	\$39.73	\$20,213,829	\$0	\$20,213,829
1991	1,765	\$40.27	\$24,774,418	\$0	\$24,774,418
1992	2,013	\$41.92	\$26,414,337	\$0	\$26,414,337
1993	2,042	\$42.56	\$27,726,342	\$0	\$27,726,342
TOTAL STATE EXPENDITURES				\$130,749,258	General Revenue

*In fiscal year 1993, there were over 800 other inmates whose self-reported alien status had not been verified by INS which, when added to the Mariel (658) and other alien (2,042) incarcerations, increased the total to over 3,500. The 1994 estimate comes to over 4,100 incarcerated aliens in state correctional facilities.

Source: Florida Department of Corrections, Bureau of Planning, Research, and Statistics, Report run on August 20, 1993 from the Justice Data Center.

[†]The state's total cost is adjusted to take into account the fact that some inmates are not incarcerated the full twelve months.

Table 3-19
Alien Supervision Costs in Florida (Probation & Parole)
 100% STATE COSTS (GENERAL REVENUE)

FISCAL YEAR	SUPERVISION ALL TYPES	REGULAR	COMMUNITY CONTROL	PRETRIAL INTERVENTION	TOTAL
1980	\$85,848	Not Applicable	Not Applicable	Not Applicable	\$85,848
1981	\$151,055	Not Applicable	Not Applicable	Not Applicable	\$151,055
1982	\$358,678	Not Applicable	Not Applicable	Not Applicable	\$358,678
1983	\$651,875	Not Applicable	Not Applicable	Not Applicable	\$651,875
1984	\$1,028,961	Not Applicable	Not Applicable	Not Applicable	\$1,028,961
1985	\$1,191,805	Not Applicable	Not Applicable	Not Applicable	\$1,191,805
1986	\$1,371,926	Not Applicable	Not Applicable	Not Applicable	\$1,371,926
1987	Not Applicable	\$1,641,485	\$247,820	Not Applicable	\$1,889,305
1988	Not Applicable	\$1,898,533	\$595,023	\$9,235	\$2,502,791
1989	Not Applicable	\$2,082,307	\$589,844	\$3,446	\$2,675,597
1990	Not Applicable	\$3,056,948	\$509,504	\$20,148	\$3,586,600
1991	Not Applicable	\$4,022,972	\$591,804	\$43,274	\$4,658,050
1992	Not Applicable	\$5,253,095	\$872,777	\$35,872	\$6,161,744
1993	Not Applicable	\$5,886,592	\$863,564	\$56,371	\$6,806,527
					\$33,120,761

TOTAL STATE EXPENDITURES \$33,120,761 (General Revenue)

Source: Florida Department of Corrections, Bureau of Planning, Research, and Statistics, Report run July 20, 1993 from the Justice Data Center.

Local Incarceration of Undocumented Aliens

Local clerks of the court are required by Florida Statute to notify the Immigration and Naturalization Service when an alien is convicted of a felony. This information is used by the federal government during the review process for possible deportation of a felon. Local jails incarcerated 187 undocumented aliens from 1989-92 at an unreimbursed cost of \$2,997,021²⁰.

PUBLIC INFRASTRUCTURE

Public infrastructure encompasses a variety of costs including road and bridge construction, correctional facilities, educational facilities, water and electricity, and solid waste removal. For the purpose of this report, the capital construction costs of educational and correctional facilities attributable to non-citizens was considered.

The Florida Department of Corrections has reported expenditures of \$639.8 million on correctional facilities since 1980. The total estimated cost to the state for housing non-citizen inmates since 1980 is \$33.6 million. This figure was determined by calculating the percentage of non-citizens within the inmate population and breaking out that figure from total correctional expenditures.

The Florida Department of Education, and school districts throughout the state have spent \$10 billion on capital outlay expenditures since 1980. The estimated cost to the state attributable to non-citizens is \$583.2 million. This can be broken out to \$142.5 (state costs), and \$440.7 (local costs).

²⁰ Local Government Law Enforcement, The Advisory Council on Intergovernmental Relations.

PRIVATE ENTITY PROGRAMS

Volunteer Agency Matching Grant Program (VOLAG)

The Congress has funded the Matching Grant program since 1979. The federal government awards these grants up to approximately \$1,000 per refugee to private voluntary agencies that provide refugee resettlement assistance (see *Table 3-20*). It is intended as an alternative approach to resettlement assistance offered through state administered programs.

The goal of the program is to assist refugees in gaining self-sufficiency within four months of arrival without accessing public cash assistance. There are 11 national voluntary agencies, with thirty-nine local affiliates in Florida. Five of the national voluntary agencies participate in the Matching Grant program. It is funded through the U.S. Department of Health and Human Services, Office of Refugee Resettlement.

Table 3-20
Florida VOLAG Program Costs
 CUMULATIVE TOTAL FOR YEARS 1980-1993

PROGRAM AREA	TOTAL COSTS	FED. REIMBURSEMENTS	NET PRIVATE COSTS
HEALTH SERVICES	\$197,446,809	\$ 83,405,809	\$114,041,531
SOCIAL SERVICES	\$ 28,244,408	\$ 13,989,828	\$ 14,254,580
OTHER	\$ 35,797,601	\$ 35,369,085	\$ 428,516
TOTAL	\$261,488,818	\$132,764,190	\$128,724,628

Source: Interviews and surveys with local, private, and private not-for-profit organizations conducted by the Florida Advisory Council on Intergovernmental Relations between May and September, 1993.

CHAPTER FOUR

IMMIGRATION AND FLORIDA'S FUTURE



"The movement of people involves not only markets and governments, but the decisions of millions of families and individuals."

The World Bank

In 1989, the United Nations estimated that approximately 50 million people lived in a country other than their country of origin. In 1992, the World Bank estimated this figure to be close to 100 million, or an estimated two percent of the world population. These global statistics are important, because economic and social conditions around the world influence decisions which affect the number of people seeking to immigrate to the United States and, particularly, to the State of Florida.

It is also important to examine, and attempt to understand the motivational factors which cause people from nearly every part of the globe to leave their homeland. There is always a pull as well as a push as individuals move in search of a better life. For each potential immigrant, the balance between the push and pull changes over time. At one end of the spectrum are students and professionals looking for better education or career opportunities. Somewhere in the middle are migrant workers, who would often prefer to stay at home, but move in search of a livelihood. Those whose situation is particularly desperate are referred to as economic refugees. At the far end of the spectrum are refugees and asylum seekers in the conventional sense, who are forced to move, or pushed, by immediate threats to life itself.

Pressures to migrate are increasing as the growth of the global economy has emphasized rather than reduced inequality between nations. Images and information through the global communications media and social networks strengthen the pull of the wealthier nations.

Migration is a response to stimulus, but it is also a decision, part of an individual, family or group strategy for survival or a means to a better life. Migratory movement may well continue even after economic circumstances in the sending area improve. People are likely to be attracted to places where members of their own family and people from their own locality and culture have established themselves. Moreover, immigrant networks which have developed over the years also tend to be very influential in determining specific routes and destinations many

new immigrants tend to follow. This has proven to be true in states such as Florida, thereby making it relatively safe to conclude that this trend is likely to continue through the balance of the decade. However, it should be noted that many other key factors will come into play.

After 50 years of rather low immigration to the United States, levels began to rise substantially in the 1960s. Between the early 1960s and the late 1980s, the number of immigrants from developing countries grew dramatically, reaching 90 percent of total admissions in 1985-1989. During the decade of the 1980s, more than 7.3 million immigrants entered the United States legally, and as many as 2.7 million illegally, many of whom reside in one of six states, including Florida²². Whether this trend will continue throughout the 1990s will depend upon several domestic factors, including the capacity of the American economy to absorb and provide jobs and other opportunities for immigrants, and actions by the Administration and the Congress to either stem the flow of immigrants or to open the doors wider. The latter option does not seem very likely at this time. In fact there seems to be growing sentiment in both the Statehouses across America and in the halls of Congress not only to tighten border controls, but also to take a range of additional steps to discourage immigration.

Presently, there are more than one hundred bills pending before Congress which have the potential to shift immigration policy in this country to varying degrees. It is possible that one or more of these bills could be adopted and signed into law. Among the most significant attempts to change laws governing entry into the United States was primarily directed at the illegal alien population. Illegal emigrants from Mexico, as gauged by the U.S. Border Patrol, soared in the 1980s until the enactment of the Immigration Reform and Control Act of 1986. The law provided amnesty to long term undocumented residents, but sought to deter further immigration by imposing heavy penalties on employers who hire people without proper documentation.

The law achieved its intended purpose at first . . . the number of individuals apprehended plummeted after it went into effect. Yet, the number has been rising ever since, until recently. California, which has experienced a protracted economic slump, has suddenly become less attractive to those seeking a better life due

²²United Nations Population Fund, "State of World Population", 1993.

to the lack of opportunities for employment. The recession in that state has decimated industries in which immigrants, both documented and undocumented, have worked as day laborers, predominantly in construction and landscaping. Street corner labor markets have become overpopulated relative to demand, and much the same is happening in California's fertile farm regions. Some of those who have immigrated to California have become discouraged and are returning to their countries of origin. These developments are significant to Florida, because California is home to approximately one half of all immigrants entering the United States over the past fifteen years, and is considered to be a bellwether state on immigration patterns and trends.

Decisions made at the federal level concerning Haitians (as well as others seeking refuge from economic and political turmoil in Caribbean and Central American nations), the continued recovery of the Florida economy, and even the degree of success of the North American Free Trade Agreement (NAFTA)²⁰ will all weigh heavily in determining the flow of immigrants to Florida. The relative influence that each of these factors, and others, will only become clearer in the days and months ahead. Predicting the future of immigration and its precise impact on Florida is much like a New Years Resolution, it is usually not an accurate barometer of upcoming events, and it tends to be adjusted over time in the face of reality. However, what can be stated with a great deal of certainty is that preparation for an ever increasing number of potential new arrivals to Florida is essential. Toward that objective, the state has been working with the federal government on a contingency plan for mass immigration. The current draft federal plan addresses federal responsibility to any future mass immigration to Florida, and identifies the deployment of state and local resources in support of the federal effort.

The federal plan delineates the responsibilities of various federal agencies in the case of an immigration related emergency. The federal response plan also includes a summary of the state's commitment in support of the federal plan. This summary lists the agencies involved and the support function to which they would be assigned. The command structure for state and local governments is the same as for other major emergencies. Utilizing what was learned during the Hurricane Andrew response, a fiscal data collection system has been developed and added to the contingency

plan for mass immigration. This would aid in the documentation of state and local costs during an immigration related emergency, and ultimately assist any attempts of state and local reimbursement claims.

Once the federal plan is finalized, an interagency workgroup has been designated to prepare a compatible state support plan. This document would further define the responsibilities of all state agencies responsible for law enforcement, emergency management, health care, and any other appropriate state agency that would be activated in the case of a mass immigration emergency. The Florida Department of Community Affairs is the lead state contact for this plan.

Florida has made careful and extensive preparations in the event the state is confronted with a mass immigration situation. However, although planning for logistical requirements and arranging for basic care would likely be handled smoothly through intergovernmental cooperation, federal assistance would be an absolute necessity. The State of Florida, along with other states, needs assurance that the federal government will shoulder full responsibility for policy decisions concerning immigration, and not "turn a blind eye" to the fiscal consequences of its actions.

Federal control over national boundaries is well established in law. Article 1, Section 8 of the U.S. Constitution provides for federal authority over the defense of the nation, regulation of Commerce and the creation of a uniform rule of naturalization. Unfortunately, responsibility for immigration policy has never translated into providing the states with adequate resources to assist new immigrants with services. It is increasingly unreasonable to expect that a few states whose borders are contiguous to other nations either by land or water should assume responsibility for thousands of documented and undocumented new residents every year. What is required is a strong intergovernmental partnership which would involve the delivery of services at the state and local level and the financial support of the federal government. Florida intends to explore and pursue every appropriate means of requiring federal reimbursement for the cost associated with immigration. It is imperative that the state attempt to ameliorate the adverse impact federal immigration policies and processes have had on Florida's limited resources by making its position known in Congress as well as the federal executive branch of government.

²⁰ It has been suggested that NAFTA will initially increase illegal immigration from Mexico due to job displacement, particularly in agriculture. It is also believed that in the long term NAFTA will lower the flow of illegal immigration into the United States because of the increase in job opportunities in Mexico. Source: CRS Report for Congress, "Illegal Immigration: Facts and Issues", September 23, 1993.

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